

Nikah Al-Mut'ah

Zina or Sunnah

Toyib Olawuyi

بسم الله الرحمن الرحیم

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point

All the Sahabah – including Abu Bakr and 'Umar - considered mut'ah to be halal throughout the lifetime of the Prophet, and throughout the rule of Abu Bakr. For most of the era of 'Umar, all the Sahabah generally affirmed the permissibility of mut'ah. However, at the end of his caliphate, he made it haram; and that changed everything. The generality of the Sahabah obeyed him; and only a handful remained steadfast in affirming the permissibility of temporary marriage. Some of the Tabi'in also proclaimed it halal. However, the number of the pro-mut'ah elements continued to dwindle among the Ahl al-Sunnah, until none – or almost none - accepted it anymore. The Shi'is, on their part, have remained unshakable and unyielding on the permissibility of temporary marriage – from the time of the Messenger till this very .day of ours

Dedication

بسم الله الرحمن الرحيم

يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا إن الله لا يحب المعتدين

This book is dedicated to

,Imam Muhammad b. ‘Ali al-Baqir

.peace be upon him, and upon his pure fathers and offspring

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Baker for his deep insights about the topic of mut’ah. May Allah bless our three brothers and all our loving brothers and sisters from the Shi’ah Imamiyyah and the .Ahl al-Sunnah wa al-Jama’ah

Preface

Mut’ah was unknown on the earth before Allah sent Muhammad, sallallahu ‘alaihi wa alihi. An average Sunni Muslim would be surprised to know this. Our brothers and sisters from the Ahl al-Sunnah have been repeatedly bombarded with severe anti-mut’ah propaganda for several years (or perhaps even decades or centuries), which claims that it was a pagan custom of the pre-Islamic Arabs that was temporarily tolerated by the Prophet – like alcohol – and was then banned eternally by him. However, ask the Sunni ‘alim to produce reliable Sunni evidence that mut’ah was ever .practised during the Jahiliyyah period

That is when things get really messy. He will never be able to give the proof – no matter the spread of his knowledge, and no matter his scholarly standing. Demand also, if possible, the same evidence from one billion Sunni ‘ulama, and you will never get it till the Day of al-Qiyamah. Of course, it does not exist! Mut’ah was introduced to this planet, to this cosmos, for the very first time by none other than the Messenger of Allah, on the Order of his Lord. It was part of His Mercy, made especially for this :Ummah, as Imam ‘Abd al-Razzaq (d. ٢١١ H) records

عبد الرزاق عن ابن جريج عن عطاء قال: لأول من سمعت منه المتعه

صفوان بن يعلى، قال: أخبرني عن يعلى أن معاويه استمتع بامرأه بالطائف، فأنكرت ذلك عليه، فدخلنا على ابن عباس، فذكر له بعضنا، فقال له: نعم، فلم يقر في نفسي، حتى قدم جابر ابن عبد الله، فجئناه في منزله، فسأله القوم عن أشياء، ثم ذكروا له المتعه، فقال: نعم، استمتعنا على عهد رسول الله صلى الله عليه وسلم، وأبي بكر، وعمر، حتى إذا كان في آخر خلافه عمر ... قال عطاء: وسمعت ابن عباس يقول: يرحم الله عمر، ما كانت المتعه إلا رخصه من الله عز وجل، رحم بها أمه محمد صلى الله عليه وسلم، فلو لا نهيه عنها ما احتاج إلى الزنا إلا شقي، قال: كأني والله أسمع قوله: إلا شقي - عطاء القائل - قال عطاء: فهي التي في سوره النساء { فما استمتعتم به منهن } إلى كذا وكذا من الأجل، على كذا وكذا

:Abd al-Razzaq – Ibn Jurayj – 'Aṭa'

The person from whom I first heard about mut'ah was Safwan b. Ya'la. He narrated to me from Ya'la that Mu'awiyah did mut'ah with a woman at Ṭaif. So, I denied that upon him. Then, we entered upon Ibn 'Abbas, and one of us mentioned (mut'ah) to him, and he said, "Yes". But, it did not settle well in me, until when Jabir b. 'Abd Allah arrived. So, we went to him at his house, and the people asked him about various things. Then, they mentioned mut'ah, and he said, "Yes. We did mut'ah during the time of the Messenger of Allah, Abu Bakr and 'Umar UNTIL at the

".…last part of the 'Umar's caliphate

:Aṭa said'

I heard Ibn 'Abbas saying: "May Allah show mercy to 'Umar. Mut'ah was nothing except a PERMISSION from Allah the Almighty. He showed MERCY through it to the Ummah of Muhammad, peace be upon him. If he ('Umar) had not forbidden it, none ".would have needed to commit zina except a wretched person

He – 'Aṭa – said: By Allah, it is like I am still hearing his statement "except a wretched ."person

Aṭa said: It is that which is in Surah al-Nisa {Those of them with whom you contract' (mut'ah} till such-and-such period, for such-and-such.(١)

:Commenting on this hadith, al-Hafiẓ (d. ٨٥٢ H) states

فأخرجه عبد الرزاق من طريق صفوان بن يعلى بن أميه أخبرنى يعلى ان معاويه استمتع بامرأه بالطائف واسناده صحيح

Abd al-Razzaq recorded it with the chain of Safwan b. Ya'la b. Umayyah: Ya'la ' narrated to me that Mu'awiyah did mut'ah with a woman at Ṭaif. And its chain is (sahih.(٢)

However, we have seen certain Sunni elements who argue against the authenticity of this riwayah on the basis of Ibn Jurayj's tadlis. The keen observer notices though that Aṭa'] (قال عطاء) he said] and] (قال) Ibn Jurayj has narrated from 'Aṭa using the phrases said] in addition to his 'an-'an manner of transmission. 'Allamah al-Albani (d. ١٤٢٠ H) :explains what both phrases indicate

روى أبو بكر بن أبى خيثمه بسند صحيح عن ابن جريج قال: " إذا قلت: قال عطاء , فأنا سمعته منه , وإن لم أقل سمعت ".

Abu Bakr b. Abi Khaythamah recorded with

Abu Bakr 'Abd al-Razzaq b. Hamam al-Ṣa'nani, al-Muṣannaf [annotator: Habib al- - ١

Rahman al-A'ẓami], vol. ٧, pp. ٤٩٦-٤٩٧, ١٤٠٢١

Shihab al-Din Ibn Hajar al-'Asqalani, Fath al-Bari Sharh Ṣahih al-Bukhari (Beirut: - ٢
Dar al-Ma'rifah li al-Ṭaba'ah wa al-Nashr; ٢nd edition), vol. ٩, p. ١٥١

a sahih chain that Ibn Jurayj said: Whenever I say: “ ‘Aṭa said”, then I HEARD it from him, even if I do not say “I heard”.(1)

This basically rules out tadlis completely in the above hadith of ‘Abd al-Razzaq. As such, the objection of tadlis is baseless and erroneous. But, there is more! Al-Albani further submits:

قد روى أبو بكر بن أبى خيثمه بسند صحيح عن ابن جريج قال: إذا قلت: قال عطاء فأنا سمعته منه , وإن لم أقل سمعت.

فهـذا نص منه أن عدم تصـريحه بالسـماع من عطاء ليس معناه أنه قد دلسه عنه , ولكن هل ذلك خاص بقوله " قال عطاء" أم لا فرق بينه وبين مـا لو قال " عن عطاء " كما فى هـذا الحـديث وغيره؟ الـذى يظهر لى الثانى , وعلى هـذا فكل روايات ابن جريج عن عطاء محموله على السماع إلا ما تبين تدليسه فيه , والله أعلم.

Abu Bakr b. Abi Khaythamah has narrated with a sahih chain from Ibn Jurayj that he said: Whenever I say: “ ‘Ata said”, then I HEARD it from him, even if I do not say “I heard”.

This is an explicit statement from him that his omission to say “I heard” from ‘Aṭa does not mean that he has done tadlis from him. However, is this restricted to his statement “ ‘Aṭa said” or is there no difference between it and if he said “from ‘Aṭa” as in this hadith and others? What is apparent to me is the second. Thus, based upon this, all reports of Ibn

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1- Muhammad Naṣir al-Din al-Albani, Irwa al-Ghalil fi Takhrij Ahadith Manar al-Sabil (Beirut: al-Maktab al-Islami; ۲nd edition, ۱۴۰۵ H), vol. ۴, p. ۲۴۴, ۱۰۵۰

Jurayj from ‘Aṭa are considered as what he heard explicitly, except that whose tadlis (is clear. And Allah knows best.(١)

Therefore, there is no tadlis in the report of ‘Abd al-Razzaq, and it has a perfectly sahih chain – from Safwan b. Yala from Ya’la; from Ibn ‘Abbas; and from Jabir b. ‘Abd Allah. Al-Hafiẓ has explicitly declared the ‘Abd al-Razzaq – Ibn Jurayj – ‘Aṭa – Safwan b. Ya’la – Ya’la sanad to be sahih. Of course, both Ibn ‘Abbas and Jabir were Sahabis. Therefore, the ‘Abd al-Razzaq – Ibn Jurayj – ‘Aṭa – Ibn ‘Abbas and ‘Abd al-Razzaq – .Ibn Jurayj – ‘Aṭa – Jabir b. ‘Abd Allah chains are sahih as well

:That riwayah establishes that

i. Mut’ah was a “permission” from Allah. This means that the Muslims were forbidden from practising it until He permitted them. This apparently defeats the theory that it was initially allowed and then disallowed. Rather, it was originally haram, and then .was permitted by our Lord out of His Mercy to us

ii. Allah revealed a verse in Surah al-Nisa to authorize the practice of mut’ah. ‘Aṭa .recited that ayah, and we will have more to say about it later in this book

iii. Mu’awiyah practised mut’ah during his caliphate, long after the death of the Prophet, Abu Bakr, ‘Umar, ‘Uthman and ‘Ali, ‘alaihi al-salam. His action was supported .by both Ibn ‘Abbas and Jabir b. ‘Abd Allah al-Ansari, raḍiyallahu ‘anhuma

iv. Both Ibn ‘Abbas and Jabir said “yes” to mut’ah, thereby allowing it and declaring it

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١- Muhammad Naṣir al-Din al-Albani, Irwa al-Ghalil fi Takhrij Ahadith Manar al-Sabil (Beirut: al-Maktab al-Islami; ۲nd edition, ۱۴۰۵ H), vol. ۳, p. ۹۷, ۶۲۹. We do not agree with the conjecture of al-Albani here, that the clearly ‘an-‘an reportage of Ibn Jurayj also .means that he had “heard” the riwayah

.halal

v. Jabir b. ‘Abd Allah asserted that mut’ah was allowed by the Prophet till his death, and was also allowed by Abu Bakr till his death. He further claimed that even ‘Umar .too allowed it for most of his caliphate, but later banned it at the tail end of his rule

vi. Ibn ‘Abbas proclaimed that mut’ah was a “mercy” from Allah specially for the Ummah of Muhammad. Whosoever knows how mut’ah truly works can easily confirm .this

vii. Ibn ‘Abbas also declared that if ‘Umar had not banned mut’ah, none would have .needed to commit zina except the wretched ones. He is right about this too

viii. Ibn ‘Abbas was very explicit that it was ‘Umar who banned mut’ah – NOT Allah, .and NOT His Messenger

:Abd al-Razzaq has another hadith which confirms the last point above‘

عبد الرزاق عن ابن جريج قال: أخبرنى أبو الزبير قال: سمعت جابر بن عبد الله يقول: استمتعنا أصحاب النبى صلى الله عليه وسلم، حتى نهى عمرو بن حريث

:Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr – Jabir b. ‘Abd Allah‘

We, the Sahabah of the Prophet, peace be upon him, did mut’ah UNTIL the“ (prohibition of ‘Amr b. Hurayth (from it).”(١

:The only new name here is Abu al-Zubayr. Al-Hafiẓ says about him

محمد بن مسلم بن تدرس بفتح المثناه وسكون الدال المهمله وضم الراء الأسدى مولاهم أبو الزبير المكى صدوق إلا أنه يدلس

Muhammad b. Muslim b. Tadrus al-Asadi, their freed slave, Abu al-Zubayr al-Makki: (Saduq (very truthful), except that he used to do tadlis.(٢

There is no ‘an-‘an transmission in

Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al- - ١ Rahman al-A’ẓami], vol. ٧, p. ۴۹۹, ١۴٠٢۵

Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah - ٢ al-‘Ilmiyyah; ٢nd edition, ١۴١۵ H) [annotator: Muṣṭafa ‘Abd al-Qadir ‘Aṭa], vol. ٢, p. ١٣٢, ۶٣١٠

the above sanad. Therefore, it is hasan. The report is explicit that the Sahabah generally practised mut'ah without interference, from the lifetime of the Prophet, till when 'Amr b. Hurayth was prohibited from it. 'Abd al-Razzaq has another riwayah :which sheds more light

عبد الرزاق عن ابن جريج قال: أخبرني أبو الزبير أنه سمع جابر بن عبد الله يقول: قدم عمرو بن حريث من الكوفه فاستمتع بمولاه، فأتى بها عمر وهى حبلى، فسألها، فقالت: استمتع بى عمرو بن حريث، فسأله، فأخبره بذلك أمرا ظاهرا، قال: فهلا غيرها؟ فذلك حين نهى عنها

:Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr – Jabir b. 'Abd Allah'

Amr b. Hurayth arrived from Kufah and did mut'ah with a slave woman. Then, she' was brought to 'Umar when she became pregnant, and he interrogated her. So, she said, " 'Amr b. Hurayth did mut'ah with me." Then, he interrogated him, and he informed him through that of an apparent matter." He said, "So, why not other than (her?" That was the moment when he forbade it.(١

The chain is hasan, as our reader can see. It seems that 'Umar became very angry that 'Amr b. Hurayth – a Sahabi – did mut'ah with a slave woman. For that reason, he banned it altogether – whether with free women, or with slaves. As Jabir testified in .the other athar, this incident took place towards the end of 'Umar's caliphate

Jabir made a clear point, that the Sahabah continued to practise mut'ah until 'Umar made it haram in the case of

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Abu Bakr 'Abd al-Razzaq b. Hamam al-Ṣa'nani, al-Muṣannaf [annotator: Habib al- - ١ Rahman al-A'ẓami], vol. ٧, p. ٥٠٠, ١٤٠٢٩

Amr b. Hurayth. Then, they stopped. However, it was not all of them that obeyed‘ ‘Umar’s decree. The vast majority did; but, a few – along with their disciples - continued to uphold the Verse of Mut’ah and the Sunnah. Imam Ibn Hazm (d. ۴۵۶ H) :gives us some of their names

وقد ثبت على تحليلها بعد رسول الله صلى الله عليه وسلم جماعه من السلف، رضى الله عنهم، منهم من الصحابه، رضى الله عنهم، أسماء بنت أبى بكر الصديق، وجابر بن عبدالله، وابن مسعود، وابن عباس، ومعاويه بن أبى سفيان، وعمرو بن حريث، وأبو سعيد الخدرى، وسلمه، ومعبد ابنا أميه بن خلف.

ورواه جابر بن عبدالله، عن جميع الصحابه مده رسول الله صلى الله عليه وسلم ومده أبى بكر وعمر إلى قرب آخر خلافه عمر. واختلف فى إباحتها، عن ابن الزبير، وعن على فيها توقف. وعن عمر بن الخطاب أنه إنما أنكرها إذا لم يشهد عليها عدلان فقط، وأباحها بشهاده عدلى_ن.

ومن التابع_ين: طاووس، وعطاء، وسعيد بن جبير، وسائر ف_قهاء م_ك_ه أع_زها الله.

A group of the Salaf, may Allah be pleased with them, were FIRM in declaring it halal AFTER the Messenger of Allah. Those of them from the Sahabah, may Allah be pleased with them, were Asma bint Abi Bakr al-Siddiq, Jabir b. ‘Abd Allah, Ibn Mas’ud, Ibn ‘Abbas, Mu’awiyah b. Abi Sufyan, ‘Amr b. Hurayth, Abu Sa’id al-Khudri, and .Salamah and Ma’bad – sons of Umayyah b. Khalaf

Jabir b. ‘Abd Allah also reported it (i.e. declaration of mut’ah as halal) from all the Sahabah during the time of the

Messenger of Allah, peace be upon him, and during the time of Abu Bakr and ‘Umar until near the end of the caliphate of ‘Umar. Ibn al-Zubayr had contradictory opinions on its permissibility, while ‘Ali expressed no opinion concerning it. It is narrated that ‘Umar b. al-Khaṭṭab only denied it if two just people did not act as its witnesses, and .he considered it permissible if two just people acted as witnesses to it

And among the Tabi’in were: Ṭawus, ‘Aṭa, Sa’id b. Jubayr, and the rest of the jurists of (Makkah, may Allah honour it.(١)

So, all the Sahabah – including Abu Bakr and ‘Umar - considered mut’ah to be halal throughout the lifetime of the Prophet, and throughout the rule of Abu Bakr. For most of the era of ‘Umar, all the Sahabah generally affirmed the permissibility of mut’ah. However, at the end of his caliphate, he made it haram; and that changed everything. The generality of the Sahabah obeyed him; and only a handful remained steadfast in affirming the permissibility of temporary marriage. Some of the Tabi’in also proclaimed it halal. However, the number of the pro-mut’ah elements continued to dwindle among the Ahl al-Sunnah, until none – or almost none - accepted it anymore. The Shi’is, on their part, have remained unshakable and unyielding on the permissibility of temporary marriage – from the time of the Messenger till this very .day of ours

But, is it not strange? According to the theory of the Ahl al-Sunnah, the Prophet declared

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١- Abu Muhammad ‘Ali b. Ahmad b. Sa’id b. Hazm al-Andalusi al-Qurṭubi al-Ẓahiri, al-Muhalla (Dar al-Fikr li al-Ṭaba’ah wa al-Nashr wa al-Tawzi’), vol. ٩, pp. ٥١٩-٥٢٠

mut'ah to be haram before his death. Yet, the Sahabah as a whole paid no heed to his words. They continued to regard mut'ah as halal, and also continued to practise it. When Abu Bakr became caliph, he too made zero efforts to enforce the alleged decree of the Messenger. Instead, he allowed the Ummah to freely engage in mut'ah. 'Umar also did not give a damn: he let the Sahabah marry people temporarily for most of his rule.

However, he became upset when 'Amr b. Hurayth took it too far by contracting mut'ah with a slave woman. He asked 'Amr: "So, why not other than her?" At that point, he declared it haram. Then, the same Sahabah who refused to respect the decree of their Prophet followed 'Umar. Most of them abandoned mut'ah, and started to oppose it. A few of them, however, remained adamantly in defence of it, and used to practise it, till death.

Is this really a credible theory? Do the Ahl al-Sunnah truly want us to view the Sahabah as people who disregarded the words of their Messenger? Is that it? Do Sunnis seriously want us to believe that the words of 'Umar carried more weight in the sight of the Sahabah than those of Allah and His Prophet? Do they want us to consider the Sahabah as those who indulged in illegal sex during the lifetime of Muhammad, and he did not stop them?! What about Abu Bakr? The Sunni theory assumes that he too

.condoned the fornication and adultery of the Sahabah during his caliphate

Is that it? What of caliph ‘Umar? Yeah, he permitted zina among the people until ‘Amr b. Hurayth irritated him by doing it with a slave woman. If ‘Amr had not extended the pleasure to the lowest rung of the caste system, he possibly could have tolerated mut’ah till his death! Interestingly. The great caliph made no attempt to lash or stone !?‘Amr for either fornication or adultery. Why was that

Or, was it that the generality of the Sahabah only happened to have missed the declaration of the Prophet on mut’ah, as many Sunnis claim? Can a kid believe that? The Messenger supposedly announced its prohibition multiple times in public among his Sahabah. Yet, somehow, that information never reached them until when ‘Umar re-banned it! Was that really it? What about Abu Bakr? He allowed mut’ah throughout his regime. He too never got wind of its prohibition by the Prophet? Where was he when the alleged decree of the prohibition of mut’ah was being publicly announced by the Messenger himself, on different occasions? Was he then on Mars? What of ‘Umar? Our Sunni brothers argue that he knew of the prohibition and had only .enforced it

Good! But then, why did he initially permit it? He forgot the hadith? Why did he not narrate it to Abu Bakr? Moreover, did that hadith reach Ibn ‘Abbas, Jabir b. ‘Abd Allah, Mu’awiyah and other Sahabah from him? Or did those Sahabah

happen to miss the public narration of the riwayah once more? If yes, why were they constantly missing the hadith? Then, why did none of the majority of the other Sahabah who followed ‘Umar make any attempt to narrate it to them? Or, did they hear it? If yes, why then did they continue to defend the permissibility of mut’ah? Why did they continue to practise it? Were they deliberately defending and committing ?zina? But, to what ends was that

From whatever angle one looks at it, mut’ah is always an impossible situation for our Sunni brothers. If they accept its permissibility, ‘Umar takes a very devastating hit. Yet, if they proclaim its prohibition, a lot of the other Sahabah lose a lot of things within the Ummah! From our judgment, many Sunnis attack mut’ah in order to defend the honour of ‘Umar. However, little do they realize that they are only destroying that !of other Sahabah, including Abu Bakr

But, what is the truth about mut’ah? Did Allah truly reveal an ayah about it? If yes, was it ever abrogated? Can a hadith abrogate a verse of the Qur’an? What is the status of any riwayah that attempts to do that? How exactly is mut’ah practised? What are its conditions, restrictions and formalities? Is it really how most of the Ahl al-Sunnah picture it in their minds? Is it zina in truth? Is it illegal? Is it immoral? Is it a shame or an honour? Can it be contracted with

a depraved man, woman or girl? Is it truly a "mercy" from Allah as Ibn 'Abbas claimed? Or, is it a curse for the Ummah? Is it a legitimate marriage? Or, is it only a perversion? In this book, we will be investigating these and other questions, in order to find what ?really happened in the early history of Islam, about mut'ah

We must find out how we got where we are today, so that we could correct any wrong steps in the past and move to our Lord on a smoother path. This, we will be doing in this exploratory research of ours. We seek Allah's Help in this effort, and we implore Him to forgive us all our mistakes in it, and to accept it as a worthy act of 'ibadah. And may Allah send His salawat and barakat upon our master, Muhammad b. .'Abd Allah, and upon his purified offspring

We will leave this preface with a beautiful athar recorded by 'Abd al-Razzaq about Sa'id b. Jubayr – one of the greatest Imams of the Ahl al-Sunnah throughout history. :This is part of what al-Hafiẓ has documented about him

وقال يعقوب القمى عن جعفر بن أبى المغيره :كان ابن عباس إذا أتاه أهل الكوفه يستفتونه يقول أليس فيكم ابن أم الدهماء يعنى سعيد بن جبير وقال عمرو بن ميمون عن أبيه لقد مات سعيد بن جبير وما على ظهر الأرض أحد إلا وهو محتاج إلى علمه وقال أبو قاسم الطبرى هو ثقه إمام حجه على المسلمين قتل فى ...

شعبان سنه خمس وتسعين وهو ابن ۴۹ سنه ... وكان سفيان يقدم سعيدا على إبراهيم فى العلم وكان أعلم من مجاهد وطاووس

Ya'qub al-Qummi narrated that Ja'far b. Abi al-Mughirah said: "Whenever the people of Kufah came to Ibn 'Abbas to seek his fatwa, he used to say, 'Is there not among you Ibn Umm al-Dahma?' referring to Sa'id b. Jubayr'" 'Amr b. Maymun also reported that his father said: "Sa'id b. Jubayr died while there was no one on the face of the earth who did not need his knowledge" ... Abu Qasim al-Ṭabari said: "He was thiqah (trustworthy), an Imam, a hujjah upon the Muslims. He was murdered in Sha'ban ۹۵ H while he was ۴۹ years old" ... Sufyan used to consider Sa'id superior to Ibrahim in knowledge, and he was more knowledgeable than Mujahid and Ṭawus. (۱)

This same Ibn Jubayr examined the Sunni arguments and "proofs" against mut'ah. Then, he drew his conclusion about it. 'Abd al-Razzaq records:

عبد الرزاق عن ابن جريج قال: أخبرنى عبد الله بن عثمان بن خثيم قال: كانت بمكه امرأه عراقيه تنسك جميله، لها ابن يقال له أبو أميه، وكان سعد بن جبير يكثر الدخول عليها، قلت: يا أبا عبد الله ما أكثر ما تدخل على هذه المرأه، قال: إنا قد نكحناها ذلك النكاح – للمتعه – قال: وأخبرنى أن سعيد قال له: هى أحل من شرب الماء – للمتعه.

'Abd al-Razzaq – Ibn Jurayj – 'Abd Allah b. 'Uthman b. Khaytham:

There was a pious, beautiful Iraqi woman in Makkah. She had a son

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۱- Shihab al-Din Ahmad b. 'Ali b. Hajar al-'Asqalani, Tahdhib al-Tahdhib (Dar al-Fikr; ۱st edition, ۱۴۰۴ H), vol. ۴, pp. ۱۱-۱۳, ۱۴

called Abu Umayyah; and Sa'd b. Jubayr(1) used to enter upon her a lot. I said, "O Abu 'Abd Allah! Why do you frequently enter upon this woman?" He said, "We have married her in that marriage", referring to mut'ah.

He (Ibn Jurayj) said: He ('Abd Allah) informed me that Sa'id said to him: "IT IS MORE HALAL THAN THE DRINKING OF WATER," referring to mut'ah.(2)

Only 'Abd Allah needs an introduction here. Al-Hafiẓ says about him:

عبد الله بن عثمان بن خثيم بالمعجمه والمثلثه مصغرا القارى المكى أبو عثمان صدوق

'Abd Allah b. 'Uthman b. Khaytham al-Qari al-Makki, Abu 'Uthman: Saduq (very truthful).(3)

Therefore, the report is hasan.

1. Mut'ah In The Qur'an

Nikah al-Mut'ah, or simply mut'ah, is marriage between two consenting adults for a specified period of time. It is a form of marriage, which is why it is called a nikah. Since its duration is fixed, it is also often called "temporary marriage". The woman, before the mut'ah, must NOT be in a pending marriage with anyone else. Moreover, both parties must be adult believers; and both must be chaste. In exceptional, emergency cases, the man is permitted to enter into a temporary marriage with a chaste Jewish or Christian woman.

However, the woman can only marry a chaste Muslim man – whether in mut'ah or in a permanent marriage. In addition, both parties must mutually agree on the dowry and the length of the union. In the case of a woman who has never married, the consent of her father is obligatory for

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1- The correct spelling is Sa'id b. Jubayr. A letter has been omitted in "Sa'id". This is most probably a scribal error. Meanwhile, later in the same athar, the name has been

.spelt correctly

Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al- - ۲ Rahman al-A’ẓami], vol. ۷, p. ۴۹۶, ۱۴۰۲۰

Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah - ۳ al-‘Ilmiyyah; ۲nd edition, ۱۴۱۵ H) [annotator: Muṣtafa ‘Abd al-Qadir ‘Aṭa], vol. ۱, p. ۵۱۳, ۳۴۷۷

the mut'ah. Also, the man cannot have sex with her (i.e. the woman who has never married) throughout the agreed duration of their nikah. After the expiration of the marriage, the woman enters into a period of 'iddah in temporary unions that involved intercourse. The children of such a marriage are legitimate, and belong to the .husband; and they inherit him

The spouses in mut'ah too may also inherit each other if their marriage contract explicitly provides for it. Meanwhile, unlike in permanent marriages, there is no restriction to the number of temporary marriages a man may contract, simultaneously or consecutively. Also, mut'ah is available to single men and woman, .as well as to married men, including those who already have four permanent wives

During the life of Prophet Muhammad, sallallahu 'alaihi wa alihi, temporary marriage was legislated and practiced within the Ummah. Allah Himself decreed it in His Book, :in the Verse of al-Mut'ah

فما استمتعتم به منهن فآتوهن أجورهن فريضه ولا جناح عليكم فيما تراضيتم به من بعد الفريضه إن الله كان عليما حكيما

Those of them with whom you contract mut'ah, give them their prescribed dowries; and there is no blame on you about what you mutually agree after what is prescribed. (Verily, Allah is All-Knowing, All-Wise.(١

This ayah was not revealed like this. Rather, its original version included extra phrases :that leave no doubt about its import. For instance, Imam al-Hakim (d. ۴۰۳ H) records

أخبرنا أبو زكريا العنبرى ثنا محمد بن عبد السلام ثنا إسحاق بن إبراهيم أنبأ النضر بن

Qur'an ۴:۲۴ -۱

شميل أنبأ شعبه ثنا أبو سلمه قال : سمعت أبا نضره يقول قرأت على ابن عباس رضى الله عنهما {فما استمتعتم به منهن فآتوهن أجورهن فريضه} قال ابن عباس: فما استمتعتم به منهن إلى أجل مسمى قال أبو نضره : فقلت ما نقرأها كذلك فقال ابن عباس : والله لأنزلها الله كذلك

Abu Zakariyyah al-‘Anbari – Muhammad b. ‘Abd al-Salam – Ishaq b. Ibrahim – al-Naḍr b. Shumayl – Shu’bah – Abu Salamah – Abu Naḍrah:

I read to Ibn ‘Abbas: {Those of them with whom you contract mut’ah, give them their prescribed dowries} [۴:۲۴]. He said: “{Those of them with whom you contract mut’ah for a specified period}”. Abu Naḍrah said: I said, “We do not recite it like that!” Ibn ‘Abbas replied, “I swear by Allah, Allah certainly revealed it like that.”(۱)

Al-Hakim comments:

هذا حديث صحيح على شرط مسلم

This hadith is sahih upon the standard of (Imam) Muslim.(۲)

And Imam al-Dhahabi (d. ۷۴۸ H) concurs:

على شرط مسلم

Upon the standard of (Imam) Muslim(۳)

Imam Ibn Jarir al-Ṭabari (d. ۳۱۰ H) also documents:

حدثنا ابن المثنى، قال: ثنا محمد بن جعفر، قال: ثنا شعبه، عن أبى سلمه، عن أبى نضره، قال :قرأت هذه الآيه على ابن عباس {فما استمتعتم به منهن} قال ابن عباس: {إلى أجل مسمى}، قال قلت: ما أقرؤها كذلك !قال: والله لأنزلها الله كذلك ثلاث مرات.

Ibn al-Muthanna – Muhammad b. Ja’far – Shu’bah – Abu Salamah – Abu Naḍrah:

I read this verse to Ibn ‘Abbas: {Those of them with whom you contract mut’ah} [۴:۲۴]. He said: “{for a specified period}”. I said, “We

۱- Abu ‘Abd Allah Muhammad b. ‘Abd Allah al-Hakim al-Naysaburi, al-Mustadrak ‘ala al-Ṣahihayn (Beirut: Dar al-Kutub al-’Ilmiyyah; ۱st edition, ۱۴۱۱ H) [annotator: Muṣtafa ‘Abd al-Qadir ‘Aṭa], vol. ۲, p. ۳۳۴, ۳۱۹۲

۲- Ibid

۳- Ibid

do not recite it like that!” He replied, “I swear by Allah, Allah certainly revealed it like that.” He said it three times.(١)

Al-Hafiẓ (d. ٨٥٢ H) says about its first narrator:

محمد بن المثنى بن عبيد العنزى بفتح النون والزاى أبو موسى البصرى ....ثقه ثبت

Muhammad b. al-Muthanna b. ‘Ubayd al-‘Unaza, Abu Musa al-Basri…. Thiqah (trustworthy), thabt (accurate).(٢)

He also states concerning the second narrator:

محمد بن جعفر الهذلى البصرى المعروف بغندر ثقه صحيح الكتاب إلا أن فيه غفله

Muhammad b. Ja’far al-Hazali al-Basri, better known as Ghandar: Thiqah (trustworthy), sahih al-kitab (i.e. ahadith from his books are sahih) except that there was some negligence in him.(٣)

Ghandar’s negligence, of course, did not affect his riwayat from Shu’bah, as al-Hafiẓ quotes:

وقال ابن أبى حاتم سألت أبى عن غندر فقال كان صدوقا وكان مؤدبا وفى حديث شعبه ثقه

Ibn Abi Hatim said: “I asked my father about Ghandar and he replied, ‘He was saduq (very truthful), and was a teacher and in the hadith of Shu’bah, he is thiqah (trustworthy).’”(٤)

So, apparently, this sanad is sahih too without any doubt.

Al-Ṭabari further records:

حدثنا أبو كريب قال ، حدثنا يحيى بن عيسى قال ، حدثنا نصير بن أبى الأشعث قال ، حدثنى ابن حبيب بن أبى ثابت ، عن أبيه قال : أعطانى ابن عباس مصحفًا فقال : هذا على قراءه أبىّ قال أبو كريب قال يحيى : فرأيت المصحف عند نصير، فيه : (فما استمتعتم به منهن إلى أجل مسمى) .

Abu Kurayb – Yahya b. ‘Isa – Nasir b. Abi al-Ash’ath – Ibn Habib b. Abi Thabit – his father:

Ibn

۱- Abu Ja’far Muhammad b. Jarir b. Yazid b. Kathir b. Ghalib al-Amuli al-Ṭabari, Jami al-Bayan fi Tawil al-Qur’an (Dar al-Fikr; ۱۴۱۵ H) [annotator: Ṣidqi Jamil al-‘Aṭṭar], vol. ۵, p. ۱۹

۲- Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah al-‘Ilmiyyah; ۲nd edition, ۱۴۱۵ H) [annotator: Muṣtafa ‘Abd al-Qadir ‘Aṭa], vol. ۲, p. ۱۲۹, ۶۲۸۳

۳- Ibid, vol. ۲, p. ۶۳, ۵۸۰۵

۴- Shihab al-Din Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Tahdhib al-Tahdhib (Dar al-Fikr; ۱st edition, ۱۴۰۴ H), vol. ۹, p. ۸۵, ۱۲۹

.”Abbas gave me a mushaf. He said, “This is upon the qiraat of Ubayy b. Ka’b‘

Abu Kurayb narrated that Yahya said: “I saw the mushaf with Nusayr. In it was {Those of them with whom you contract mut’ah for a specified period} .(1)

:Commenting upon this same chain with another narration, Prof. Ibn Yasin states

ورجاله ثقات إلا يحيى بن عيسى صدوق، وابن حبيب هو عبد الله، وسنده حسن.

Its narrators are thiqah (trustworthy), except that Yahya b. ‘Isa is saduq (very truthful) as well as Ibn Habib – and he was ‘Abd Allah, and its chain is hasan.(2)

:Imam ‘Abd al-Razzaq (d. ٢١١ H) too reports

عبد الرزاق عن ابن جريج قال: أخبرنى عطاء أنه سمع ابن عباس يراها الان حلالا، وأخبرنى أنه كان يقرأ} فما استمتعتم] به [منهن إلى أجل فآتوهن أجورهن {

:Abd al-Razzaq – Ibn Jurayj – ‘Aṭa‘

I heard Ibn ‘Abbas while he saw it as halal, and he used to recite {Those of them with whom you contract mut’ah for a period, give them their prescribed dowries} .(3)

.This sanad is sahih, as we have discussed in the Preface

:Meanwhile, al-Hafiẓ Ibn Kathir (d. ٧٧٤ H) has some more relevant information for us

وكان ابن عباس ، وأبيّ بن كعب ، وسعيد بن جُبَيْر ، والسُّدِّى يقرءون : "فما استمتعتم به منهن إلى أجل مسمى فآتوهن أجورهن فريضه".

Ibn ‘Abbas, Ubayy b. Ka’b, Sa’id b. Jubayr and al-Suddi used to recite: {Those of them with whom you contract mut’ah for a specified period, give them their prescribed dowries} .(4)

So, apparently, that extra phrase makes it impossible to apply to

۱- Abu Ja’far Muhammad b. Jarir b. Yazid b. Kathir b. Ghalib al-Amuli al-Ṭabari, Jami al-Bayan fi Tawil al-Qur’an (Dar al-Fikr; ۱۴۱۵ H) [annotator: Ṣidqi Jamil al-‘Aṭṭar], vol. ۵, p. ۱۸

۲- Prof. Dr. Hikmat b. Bashir b. Yasin, Mawsu’at al-Ṣahih al-Masbur min al-Tafsir bi al-Mathur (Madinah: Dar al-Mathar li al-Nashr wa al-Tawzi’ wa al-Ṭaba’at; ۱st edition, ۱۴۲۰ H), vol. ۳, p. ۲۳۹

۳- Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al-Rahman al-A’ẓami], vol. ۷, p. ۴۹۸, ۱۴۰۲۲

۴- Abu al-Fida Isma’il b. ‘Umar b. Kathir al-Qurshi al-Dimashqi, Tafsir al-Qur’an al-‘Aẓim (Dar al-Ṭaybah li al-Nashr wa al-Tawzi’; ۲nd edition, ۱۴۲۰ H) [annotator: Sami b. Muhammad Salamah], vol. ۲, p. ۲۵۹

the verse to the permanent marriage as lots of the Ahl al-Sunnah do. The permanent marriage is never contracted "for a specified period". As such, the verse is explicit in .its legislation of temporary marriage

:Ibn 'Abbas, raḍiyallahu 'anhu, also made this clear. Al-Ṭabari says

حدثنا حميد بن مسعده، قال :ثنا بشر بن المفضل، قال :ثنا داود، عن أبى نضره، قال :سألت ابن عباس عن متعه النساء، قال :أما تقرأ سوره النساء؟ قال :قلت بلى. قال: فما تقرأ فيها :فما استمتعتم به منهن إلى أجل مسمى؟ قلت :لا، لو قرأتها هكذا ما سألتك !قال :فإنها كذا.

:Hamid b. Mas'adah – Bashar b. al-Mufaḍḍal – Dawud – Abu Nadrah

I asked Ibn 'Abbas concerning mut'ah with women. He replied, "Do you not read Surah al-Nisa?" I said, "I do." He said, "So, do you not read in it {Those of them with whom you contract mut'ah for a specified period} [۴:۲۴]?" I said, "No. If I had recite it (like that, I would not have asked you!" He said, "Verily, it is like that."(۱

:About the first narrator, al-Hafiẓ comments

حميد بن مسعده بن المبارك السامى بالمهمله أو الباهلى بصرى صدوق

(Hamid b. Mas'adah b. al-Mubarak al-Sami or al-Bahili, Basri: Saduq (very truthful).(۲

:What of the second narrator? He has an even better verdict

بشر بن المفضل بن لاحق الرقاشى بقاف ومعجمه أبو إسماعيل البصرى ثقه ثبت عابد

Bashar b. al-Mufaḍḍal b. Lahik al-Raqashi, Abu Isma'il al-Basri: Thiqah (trustworthy), (thabt (accurate), a devout worshipper of Allah.(۳

:And al-Hafiẓ states about the third narrator

داود بن أبى هند القشيرى مولاهم أبو بكر أو أبو

Abu Ja'far Muhammad b. Jarir b. Yazid b. Kathir b. Ghalib al-Amuli al-Ṭabari, Jami -۱

al-Bayan fi Tawil al-Qur'an (Dar al-Fikr; ۱۴۱۵ H) [annotator: Ṣidqi Jamil al-'Aṭṭar], vol. ۵, p. ۱۸

Ahmad b. 'Ali b. Hajar al-'Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah - ۲ al-'Ilmiyyah; ۲nd edition, ۱۴۱۵ H) [annotator: Muṣtafa 'Abd al-Qadir 'Aṭa], vol. ۱, p. ۲۴۶, ۱۵۶۴

Ibid, vol. ۱, p. ۱۳۰, ۷۰۵ -۳

محمد البصری ثقه متقن کان یهم بأخره

Dawud b. Abi Hind al-Qushayri, their freed slave, Abu Bakr or Abu Muhammad al-Basri: Thiqah (trustworthy), extremely precise. He used to hallucinate during the last part of his life.(١)

Thus, this chain too is hasan. Hamid b. Mas’adah was saduq (very truthful), and Dawud’s late-life hallucinations were not serious. Note, in the riwayah, how Ibn ‘Abbas quoted the ayah as evidence of mut’ah.

So, what is that extra phrase “for a specified period”? Was it an interpolation by Ubayy, Ibn ‘Abbas and others like them? Or, is it only a case of tahrif, in which some parts of the Kitab have been expunged? To us, the best explanation of the status of the extra phrase is in this verse:

واذکروا نعمت الله علیکم وما أنزل علیکم من الکتاب والحکمه یعظکم به

And remember the Favours of Allah upon you, and that which He has sent down to you of the Book AND the Hikmah, whereby He instructs you.(٢)

This ayah informs us that Allah has sent down two things to this Ummah: the Qur’an and the Hikmah. The same thing is repeated elsewhere:

وأنزل الله علیک الکتاب والحکمه

And Allah sent down to you (O Muhammad) the Book and the Hikmah.(٣)

It is often claimed that the “Hikmah” is the Sunnah of the Prophet. However, it is apparently more than that. The Hikmah too used to be “recited” like the Qur’an:

واذکرن ما یتلی فی بیوتکن من آیات الله والحکمه إن الله کان لطیفا خبیرا

And remember that which is recited in your houses

۱- Ibid, vol. ۱, p. ۲۸۳, ۱۸۲۲

۲- Qur’an ۲:۲۳۱

۳- Qur’an ۴:۱۱۳

(of the Verses of Allah and the Hikmah. Verily, Allah is Subtle, Aware.(١)

So, we know that “for a specified period” was revealed by Allah too within the Verse of al-Mut’ah, as testified by Ibn ‘Abbas. We also know that some of the Sahabah and Tabi’in used to “recite” it. However, we know as well that it is not part of the Qur’an nonetheless. Therefore, that phrase naturally falls under the Hikmah category. Allah revealed it to explain the ayah. It may be recited with the verse, and it may be excluded from it. Some of the Salaf – such as Ibn ‘Abbas, Ubayy b. Ka’b, Sa’id b. Jubayr and al-Suddi - chose to recite it with the ayah.

In the Shi’i books, the Verse of al-Mut’ah is also cited as evidence of its divine legislation. Shaykh al-Kulayni (d. ٣٢٩ H), for instance, documents:

عده من أصحابنا، عن سهل بن زياد، وعلى بن إبراهيم، عن أبيه جميعا، عن ابن أبى نجران، عن عاصم بن حميد، عن أبى بصير قال: سألت أبا جعفر عليه السلام عن المتعه، فقال: نزلت فى القرآن { فما استمتعتم به منهن فآتوهن أجورهن فريضه فلا جناح عليكم فيما تراضيتم به من بعد الفريضه }

A number of our companions – Sahl b. Ziyad AND ‘Ali b. Ibrahim – his father – Ibn Abi Najran – ‘Asim b. Humayd – Abu Basir:

I asked Abu Ja’far, peace be upon him, concerning mut’ah. So, he replied, “It is revealed in the Qur’an {Those of them with whom you contract mut’ah, give them their

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١- Qur’an ٣٣:٣٤

prescribed dowries; and there is no blame on you about what you mutually agree (after what is prescribed}.(1)

Allamah al-Majlisi (d. 1111 H) says about this hadith:

حسن كالصحيح

Hasan ka al-Sahih.(2)

So, this is a hasan hadith which is equal to a sahih hadith.

Al-Kulayni again records:

على بـن إبراهيـم، عـن أبيه، عن ابن أبى عمير، عن على بن الحسن بن ربـاط، عن حريز، عن عبـد الرحمن بن أبى عبـد الله قـال: سمعت أبا حنيفه يسأل أبا عبـد الله عليه السـلام عن المتعه فقال: أى المتعتين تسأل؟ قال: سألتك عن متعه الحـج فأنبئنى عن متعه النسـاء أحق هى؟ فقـال: سبحان الله أمـا قرأت كتاب الله عز وجل { فما استـمتعتم به منهن فآتوهن أجورهن فريضه } ؟ فقال أبو حنيفه: والله فكأنها آيه لم أقرأها قط.

'Ali b. Ibrahim – his father – Ibn Abi 'Umayr – 'Ali b. al-Hasan b. Rabaṭ – Hariz – 'Abd al-Rahman b. Abi 'Abd Allah:

I heard Abu Hanifah asking Abu 'Abd Allah, peace be upon him, about mut'ah. So, he (Abu 'Abd Allah) said, "Which of the two mut'ahs are you asking about?" He (Abu Hanifah) replied, "I (already) asked you about mut'ah of Hajj. So, inform me about mut'ah with women. Is it correct?" He (Abu 'Abd Allah) said, "Subhan Allah! Do you not read the Book of Allah {Those of them with whom you contract mut'ah, give them their prescribed dowries}?" Then, Abu Hanifah said, "I swear by Allah, it is as though it is a verse I have never read".(3)

Al-Majlisi comments:

حسن

Hasan.(4)

2. Reign Of The Verse Of Al-Mut'ah

It is absolutely beyond doubt

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۴۸, ۱

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۲۶

۳- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, pp. ۴۴۹-۴۵۰, ۶

۴- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۰

that Allah decreed mut’ah with women for the Ummah during the mission of His last Prophet, sallallahu ‘alaihi wa alihi. There are authentic ahadith in both Sunni and Shi’i sources confirming this. So, naturally, the next question is – has the Verse of al-Mut’ah been abrogated? This question stands at the heart of a huge dispute between the Ahl al-Sunnah and the Shi’ah over the legitimacy of mut’ah after the Messenger’s death. The Sunnis argue that mut’ah was abrogated by the Prophet, and that it has thereby become a form of zina (fornication). On the other hand, Shi’is maintain that the Verse of al-Mut’ah was never abrogated, and that mut’ah remains a command of .Allah and the valid Sunnah of His Messenger till the Day of al-Qiyamah

:(The Shi’i position is well-captured in this hadith of al-Kulayni (d. ٣٢٩ H

على، عن أبيه، عن ابن أبى عمير، عن عمر بن أذينه، عن زراره قال: جاء عبد الله بن عمير الليثى إلى أبى جعفر عليه السلام فقال له: ما تقول فى متعه النساء؟ فقال: أحلها الله فى كتابه وعلى لسان نبيه صلى الله عليه وآله فهى حلال إلى يوم القيامه فقال: يا أبا جعفر مثلك يقول هذا وقد حرمها عمر ونهى عنها؟! فقال: وإن كان فعل، قال: إنى أعيذك بالله من ذلك أن تحل شيئا حرمه عمر، قال: فقال له: فأنت على قول صاحبك وأنا على قول رسول الله صلى الله عليه وآله فهلم ألاعنك أن القول ما قال رسول الله صلى الله عليه وآله وأن الباطل ما قال صاحبك، قال: فأقبل عبد

الله ابن عمیر فقال: یسرک أن نساءک وبناتک وأخواتک وبنات عمک یفعلن، قال: فأعرض عنه أبو جعفر علیه السلام حین ذکر نساءه وبنات عمه.

:Ali – his father – Ibn Abi ‘Umayr – ‘Umar b. Uzaynah – Zurarah‘

Abd Allah b. ‘Umayr al-Laythi went to Abu Ja’far, peace be upon him, and said to him,‘ “What is your opinion of mut’ah with women?” So, he (Abu Ja’far) said, “Allah made it halal in His Book and upon the tongue of His Prophet, peace be upon him and his ”.family. Therefore, it is halal till the Day of al-Qiyamah

Then he (al-Laythi) said, “O Abu Ja’far! Someone of your calibre saying this, despite that ‘Umar had made it haram and had forbidden it?!” He (Abu Ja’far) said, “Even if he did so.” He (al-Laythi) said, “I seek refuge for you with Allah from that, from making halal something that ‘Umar made haram.” He (Abu Ja’far) said to him, “Your follow the teaching of your companion and I follow the teaching of the Messenger of Allah, peace be upon him and his family. So, invoke the curse of Allah (upon the wrong party between us) – (I say) that the truth is what the Messenger of Allah, peace be upon him ”.and his family, said, and that the falsehood is what your companion said

Abd Allah b. ‘Umayr then advanced and said, “Would it make you happy if your wives,‘ daughters, sisters and the daughters of your uncle do (mu’tah)?” So, Abu Ja’far, peace be upon

him, turned away from him when he mentioned his wives and the daughters of his (uncle.(۱

:Allamah al-Majlisi (d. ۱۱۱۱ H) says‘

حسن

(Hasan.(۲

Al-Laythi was apparently a Sunni, who held ‘Umar in extremely high esteem. He did not believe in the legitimacy of mut’ah, solely on the premise that ‘Umar forbade it. The Ahl al-Bayt of the Prophet, ‘alaihim al-salam, by contrast, follow his Sunnah, and uphold its legality. So, the official position of the chosen ones from the Messenger’s offspring is that mut’ah is decreed in the Qur’an and its verse had never been abrogated. As such, temporary marriage remains halal till the Last Hour. The Ahl al-Bayt also believe that it is a bid’ah to consider mut’ah to be haram, and that whosoever does so has opposed the Prophet of Allah. Al-Laythi insulted Imam al-Baqir, ‘alaihi al-salam, by asking if it would please him if his wives and the daughters of his uncle did mut’ah. Of course, mut’ah is haram for married women. A woman in Islam can only have one husband at a time. It is also very likely that the daughters of the Imam’s uncle were also already married at that time. Thus, due to al-Laythi’s .mocking (or perhaps ignorant) insult, the noble Imam turned away from him

Interestingly, there are some authentic Sunni riwayat which also confirm this Shi’i :hadith. Imam Muslim (d. ۲۶۱ H) has this surprising one

حدثنا حامد بن عمرو البكراوى حدثنا عبدالواحد (يعنى ابن زياد) عن عاصم عن أبى نضره قال كنت عند جابر

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۴۹, ۴

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۲۹

بن عبدالله فأتاه آت فقال ابن عباس وابن الزبير اختلفا فى المتعتين فقال جابر فعلناهما مع رسول الله صلى الله عليه و سلم ثم نهانا عنهما عمر فلم نعد لهما

:Hamid b. ‘Amr al-Bakrawi – ‘Abd al-Wahid b. Ziyad – ‘Asim – Abu Naḍrah

I was with Jabir b. ‘Abd Allah, a person came and said, “Ibn ‘Abbas and Ibn al-Zubayr disagree concerning the two types of mut’ah.” So, Jabir said, “We practised BOTH of them along with the Messenger of Allah, peace be upon him. Then, ‘Umar forbade us (from them both, and we have not reverted to them.”(١)

This hadith is significant in many ways. Among them, it establishes that the Prophet himself was practising both types of mut’ah – including that with women - along with his Sahabah. Moreover, Jabir explicitly stated that it was ‘Umar who first banned both .of them

:(The same fact is reiterated in this hadith of Imam Ahmad (d. ٢۴١ H

حدثنا عبد الله حدثنى أبى ثنا إسحاق ثنا عبد الملك عن عطاء عن جابر بن عبد الله قال كنا نتمتع على عهد رسول الله صلى الله عليه و سلم وأبى بكر وعمر رضى الله عنهم حتى نهانا عمر رضى الله عنه أخيرا يعنى النساء

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – Ishaq – ‘Abd al-Malik – ‘Aṭa –‘ :Jabir b. ‘Abd Allah

We used to do mut’ah during the time of the Messenger of Allah, peace be upon him, Abu Bakr and ‘Umar, may Allah be pleased with them, until ‘Umar, may Allah be

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Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: -١ Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. ٢, p. ١٠٢٢, (١۴٠۵ (١٧

(pleased with him, later forbade it, that is (mut'ah with) women.(1)

:Shaykh al-Arnauṭ says

إسناده صحيح على شرط مسلم

(Its chain is sahih upon the standard of (Imam) Muslim.(2)

So, 'Umar himself initially allowed it. Abu Bakr, on the other hand, had no problem with .it throughout his rule

:Imam Muslim equally reports

حدثنى محمد بن رافع حدثنا عبدالرزاق أخبرنا ابن جريج أخبرنى أبو الزبير قال سمعت جابر بن عبدالله يقول كنا نستمتع بالقبضه من التمر والدقيق الأيام على عهد رسول الله صلى الله عليه و سلم وأبى بكر حتى نهى عنه عمر فى شأن عمرو بن حريث

:Muhammad b. Rafi' – 'Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr

I heard Jabir b. 'Abd Allah saying, "We used to contract mut'ah by giving a handful of dates and flour (as the dowry) during the time of the Messenger of Allah and Abu Bakr (UNTIL 'Umar forbade it in the case of 'Amr b. Hurayth.(3)

This one repeats emphatically that the practice of mut'ah continued unimpeded and .uninterrupted from the time of the Prophet till 'Umar forbade it

It is indeed of great interest that the Sahabah generally were engaging in mut'ah with women – and this naturally included sexual intercourse with them – and the Prophet never rebuked or punished a single one of them! This occurred till his death, and also during the rule of Abu Bakr. If mut'ah were haram, then the intercourse within it would have been zina (fornication or adultery), and it would have been obligatory upon the Messenger to investigate the cases and punish

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Abu 'Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) -١ [annotator: Shu'ayb al-Arnaut], vol. ٣, p. ٣٠٤, ١۴٣٠٧

Ibid -۲

Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: -۳
Dar Ihya al-Turath al-'Arabi) [annotator: Muhammad Fuad 'Abd al-Baqi], vol. ۲, p. ۱۰۲۲,
(۱۴۰۵ (۱۶

the mut’ah practitioners. After all, they were not doing it in secret. This was how Jabir knew that it was a general practice, in the first place. So, was the Prophet failing in his duties? Or, was he condoning disobedience and illegal sex? Or, was it that he never forbade it – as the Ahl al-Bayt and Jabir b. ‘Abd Allah claimed – and therefore had nothing to probe or penalize in it? What about Abu Bakr? Why would he allow zina to ?flourish in his domains

:Imam Ahmad still has more reports for us

حدثنا عبد الله حدثنى أبى حدثنا يونس ثنا حماد يعنى بن سلمه عن على بن زيد وعاصم الأحول عن أبى نضره عن جابر بن عبد الله قال تمتعنا متعتين على عهد النبى صلى الله عليه و سلم الحج والنساء فنهانا عمر عنهما فانتهينا

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – Yunus – Hamad b. Salamah –‘ :‘Ali b. Zayd AND ‘Asim al-Ahwal – Abu Naḍrah – Jabir b. ‘Abd Allah

We practised two forms of mut’ah during the time of the Prophet, peace be upon him: (Hajj and woman. But, ‘Umar forbade us from them both. So, we desisted.(١

:Shaykh al-Arnauṭ comments

إسناده صحيح على شرط مسلم

(Its chain is sahih upon the standard of (Imam) Muslim.(٢

:He also records

حـدثنا عبد الله حدثنى أبى ثنا عفان ثنا حماد أنا على بن زيد وعاصم الأحول عن أبى نضـره عن جابر بن عبد الله قال تمتعنا على عهد رسول الله صلى الله عليه و سلم متعتين الحج والنساء وقد قال حماد

Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) -١ [annotator: Shu’ayb al-Arnaut], vol. ٣, p. ٣٥۶, ١۴٨٧٧
Ibid -٢

أيضا متعه الحج ومتعه النساء فلما كان عمر نهانا عنهما فانتهينا

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – ‘Affan – Hamad – ‘Ali b. Zayd‘ AND ‘Asim al-Ahwal – Abu Naḍrah – Jabir b. ‘Abd Allah:

We practised mut’ah during the time of the Messenger of Allah, peace be upon him, two types of mut’ah: the mut’ah of Hajj (i.e. Hajj al-Tamattu’) and mut’ah with women. But, when ‘Umar forbade us from them both, we desisted.(١)

Al-Arnauṭ again says:

إسناده صحيح

Its chain is sahih(٢)

Then, Imam Ahmad tops them with this:

حدثنا عبد الله حدثني أبي ثنا عبد الصمد ثنا حماد عن عاصم عن أبي نضره عن جابر قال متعتان كانتا على عهد النبي صلى الله عليه و سلم فنهانا عنهما عمر رضي الله تعالى عنه فانتهينا

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – ‘Abd al-Samad – Hamad –‘ ‘Asim – Abu Naḍrah – Jabir:

There used to be two types of mut’ah during the time of the Prophet, peace be upon him. But, ‘Umar, may Allah be pleased with him, forbade us from them both. So, we desisted.(٣)

Al-Arnauṭ declares:

إسناده صحيح على شرط مسلم

Its chain is sahih upon the standard of (Imam) Muslim.(٤)

So, the Sahabah were heavily into mut’ah with women till the deaths of both the Prophet and Abu Bakr, and also for a long time during ‘Umar’s rule. They freely practised it, even after the Messenger’s demise, and they freely allowed it.

Meanwhile, when ‘Umar banned mut’ah, his action naturally attracted opposition from some Sahabah. One of them was

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۱- Ibid, vol. ۳, p. ۳۶۳, ۱۴۹۵۹

۲- Ibid

۳- Ibid, vol. ۳, p. ۳۲۵, ۱۴۵۱۹

۴- Ibid

:Abd Allah b. Mas'ud, about whom Imam Muslim reports'

حدثنا محمد بن عبدالله بن نمير الهمدانی حدثنا أبی ووكيع وابن بشر عن إسماعيل عن قيس قال سمعت عبدالله يقول كنا نغزو مع رسول الله صلى الله عليه و سلم ليس لنا نساء فقلنا ألا نستخصی ؟ فنهانا عن ذلك ثم رخص لنا أن ننكح المرأه بالثوب إلى أجل ثم قرأ عبدالله { يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا إن الله لا يحب المعتدين }

Muhammad b. 'Abd Allah b. Numayr al-Hamdani – my father, Waki' and Ibn Bishr – :Isma'il – Qays

I heard 'Abd Allah saying, "We were on an expedition with the Messenger of Allah, peace be upon him, and we had no women with us. So, we said "Should we castrate ourselves?" But, he forbade us to do that. Then, he permitted us to do nikah (marriage) with the woman for a stipulated period, giving her a garment (as the dowry)." Then, 'Abd Allah recited, {O you who believe! Do not make haram the good things which Allah has made halal for you; and do not exceed the limits; surely Allah (does not love those who exceed the limits} [۵:۸۷].(۱)

:Ahmad has documented it too

حدثنا عبد الله حدثنی أبی ثنا وكيع عن بن أبی خالد عن قيس عن عبد الله قال كنا مع النبی صلى الله عليه و سلم ونحن شباب فقلنا يا رسول الله ألا نستخصی فنهانا ثم رخص لنا فی ان ننكح المرأه بالثوب إلى الأجل ثم قرأ عبد الله { لا

۱- Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: Dar Ihya al-Turath al-'Arabi) [annotator: Muhammad Fuad 'Abd al-Baqi], vol. ۲, p. ۱۰۲۲, (۱۱) ۱۴۰۴)

تحرموا طيبات ما أحل الله لكم }

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – Waki’ – Ibn Abi Khalid – Qays –‘ :‘Abd Allah

We were with the Prophet, peace be upon him, and we were youths. So, we said to“ the Messenger of Allah, “Should we castrate ourselves?” But, he forbade us (to do that). Then, he permitted us to do nikah (marriage) with the woman for a stipulated period, giving her a garment (as the dowry).” Then, ‘Abd Allah recited, {Do not make (haram the good things which Allah has made halal for you} [٥:٨٧].(١)

:Shaykh al-Arnauṭ comments

إسناده صحيح على شرط الشيخين

(Its chain is sahih upon the standard of the two Shaykhs(٢)

Apparently, Ibn Mas’ud issued this statement in response someone’s declaration of mut’ah as haram. No doubt, this was ‘Umar. It is indeed of great interest that mut’ah was considered by Ibn Mas’ud to be one of the “good things” mentioned by Allah in His Book. This was clearly why he quoted the ayah in connection with it. Al-Hafiẓ Ibn Hajar :al-‘Asqalani (d. ٨٥٢ H) has this commentary of that hadith

وظاهر استشهاد ابن مسعود بهذه الآيه هنا يشعر بأنه كان يرى بجواز المتعه

Apparently, Ibn Mas’ud’s use of this verse here as evidence shows that he considered (mut’ah to be permissible.(٣)

:Imam al-Nawawi (d. ٦٧٦ H) has the same opinion

)ثم قرأ عبد الله يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم (فيه إشاره إلى أنه كان يعتقد اباحتها كقول ابن عباس وأنه لم يبلغه نسخها

,Then)

۱- Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) [annotator: Shu’ayb al-Arnaut], vol. ۱, p. ۴۳۲, ۴۱۱۳

۲- Ibid

۳- Shihab al-Din Ibn Hajar al-‘Asqalani, Fath al-Bari Sharh Ṣahih al-Bukhari (Beirut: Dar al-Ma’rifah li al-Ṭaba’ah wa al-Nashr; ۲nd edition), vol. ۹, p. ۱۰۲

Abd Allah recited, {O you who believe! Do not make haram the good things which‘ Allah has made halal for you} [۵:۸۷]) there is an indication in it that he considered it permissible, as Ibn ‘Abbas also did, and that information concerning its abrogation did (not reach him.(۱

The last part of al-Nawawi’s submission is only a desperate excuse. As Jabir b. ‘Abd Allah, raḍiyallahu ‘anhu, claimed, the generality of the Sahabah freely practised mut’ah – unimpeded and interrupted – from the time of the Prophet till the rule of ‘Umar! Is it then possible that the information of its alleged abrogation also did not ?reach any of them – until suddenly, after ‘Umar banned it

:Meanwhile, there are a number of fawaid from the hadith of Ibn Mas’ud

It establishes that mut’ah was NOT practised amongst the Muslims initially. This .۱ was why no Muslim did it until after the Messenger “permitted” them. This refutes the .claim that the Muslims only carried on the practice of mut’ah from the Jahili era

It also shows that mut’ah is one of the “good things” mentioned by Allah, and made .۲ halal by Him, in His Book. We will explain, in the next chapter, how Ibn Mas’ud .concluded that Qur’an ۵:۸۷ is also about mut’ah, among others

It further confirms that mut’ah is truly a form of nikah (marriage). So, the parties in .۳ .it are legally husband and wife

”Allah Calls Mut’ah “A Good Thing .۳

:We know already that Allah revealed the Verse of al-Mut’ah in His Book

فما استمتعتم به منهن

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۱ - Abu Zakariyyah Yahya b. Sharaf al-Nawawi, Sharh Ṣahih Muslim (Beirut: Dar al- Kitab al-‘Arabi; ۱st edition, ۱۴۰۷ H) vol. ۹, p. ۱۸۲

فآتوهن أجورهن فريضه

(Those of them with whom you contract mut'ah, give them their prescribed dowries.(١)

:We also know that this ayah came down with some extra words included in it

فما استمعتم به منهن إلى أجل مسمى فآتوهن أجورهن فريضه

Those of them with whom you contract mut'ah for a specified period, give them their .prescribed dowries

The underlined part, however, is not part of the verse. It is only Allah's Own Tafsir of it, and it belongs to the Hikmah revealed to Prophet Muhammad, sallallahu 'alaihi wa alihi. As we have discussed in the first chapter, it is allowed to recite this extra phrase along with the verse (as Ubayy b. Ka'b, Ibn 'Abbas and some others from the Salaf did), and it is equally allowed to remove it. The words "for a specified period" make it impossible to twist the verse – in desperate attempts - in favour of permanent marriages or concubine relationships. Only mut'ah is conducted "for a specified .period", and the ayah is definitely about it

Meanwhile, the Verse of al-Mut'ah remains in force till today, and will continue to do :so till the Hour. Shaykh al-Kulayni (d. ٣٢٩ H) records

على، عن أبيه، عن ابن أبى عمير، عن عمر بن أذينه، عن زراره قال: جاء عبد الله بن عمير الليثى إلى أبى جعفر عليه السلام فقال له: ما تقول فى متعه النساء؟ فقال: أحلها الله فى كتابه وعلى لسان نبيه صلى الله عليه وآله فهى حلال إلى يوم القيامه

Ali – his father – Ibn Abi 'Umayr – 'Umar b. Uzaynah'

Qur'an ٤:٢٤ -١

:Zurarah –

Abd Allah b. 'Umayr al-Laythi went to Abu Ja'far, peace be upon him, and said to him,' "What is your opinion of mut'ah with women?" So, he (Abu Ja'far) said, "Allah made it halal in His Book and upon the tongue of His Prophet, peace be upon him and his (family. Therefore, it is halal till the Day of al-Qiyamah."(١

:Allamah al-Majlisi (d. ١١١١ H) says'

حسن

(Hasan(٢

:Ayatullah al-Ruhani also comments

صحيح

(Sahih(٣

:The ace Sunni exegete, Imam Ibn Jarir al-Ṭabari (d. ٣١٠ H), also documents

حدثنا محمد بن المثنى، قال: ثنا محمد بن جعفر، قال: ثنا شعبه، عن الحكم، قال: سألته عن هذه الآيه} : والمحصنات من النساء إلا ـ ما ملكت أيمانكم {إلى هـذا الموضع: }فما استمتعتم به منهن {أمنسوخه هى؟ قال: لا. قال الحكم: قال على رضـى الله عنه: لولا أن عمر رضى الله عنه نهى عن المتعه ما زنى إلا شقى.

:Muhammad b. al-Muthanna – Muhammad b. Ja'far – Shu'bah

I asked al-Hakam concerning this verse {Also [forbidden for marriage are] women already married, except those whom your right hands possess} up till {Those of them ."with whom you contract mut'ah} [۴:٢۴], "Is it abrogated?" He said, "NO

Al-Hakam said: " 'Ali, may Allah be pleased with him, said: 'If 'Umar, may Allah be pleased with him, had not forbidden mut'ah, none would have committed zina except (a wretched person."(۴

We already encountered this sanad in the first chapter. The chain is sahih up to al-:Hakam. As for al-Hakam himself, al-Hafiẓ states about him

الحکم بن عتیبه بالمثناه ثم الموحده مصغرا أبو محمد الکندی الکوفی ثقه ثبت فقیه

p: ۳۶

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۴۹, ۴

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۲۹

۳- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۱۴

۴- Abu Ja’far Muhammad b. Jarir b. Yazid b. Kathir b. Ghalib al-Amuli al-Ṭabari, Jami al-Bayan fi Tawil al-Qur’an (Dar al-Fikr; ۱۴۱۵ H) [annotator: Ṣidqi Jamil al-‘Aṭṭar], vol. ۵, p. ۱۹

إلا أنه ربما دلس

Al-Hakam b. 'Utaybah, Abu Muhammad al-Kindi al-Kufi: Thiqah (trustworthy), thabt ((accurate), a jurist, except that he perhaps did tadlis.(١)

Al-Hakam was without doubt a major jurist of the Ahl al-Sunnah, and this is evident from the action of Shu'bah. He declared explicitly that the Verse of al-Mut'ah was never abrogated. Moreover, by narrating the munqati' athar of 'Ali to Shu'bah, he made it absolutely clear to him his understanding that the ayah was about mut'ah. Meanwhile, the fact that the verse is unabrogated is further revealed in the general attitude of the Sunni 'ulama. A lot of them interpret it as a reference to intercourse in a permanent nikah(٢) – a submission that contradicts the authentic ahadith quoted in .our first chapter

However, there is an alternative Sunni view, which insists that the Verse of al-Mut'ah :has been abrogated. For instance, Imam Ibn Hazm (d. ۴۵۶ H) submits

قوله تعالى}: فما استمتعتم به منهن فآتوهن أجورهن فريضه] {۲۴ / النساء / ۴[فنسخت بقوله صلى الله عليه وسلم إني كنت أحللت هذه المتعه ألا وإن الله ورسوله قد حرماها ألا فليبلغ الشاهد الغائب .

ووقع ناسخها من القرآن موضع ذكر ميراث الزوجه الثمن والربع فلم يكن لها في ذلك نصيب. وقال محمد بن إدريس الشافعي رحمه الله عليه موضع تحريمها في سوره المؤمن وناسخها قوله تعالى} :والذين هم لفروجهم حافظون إلا على أزواجهم أو ما ملكت أيمانهم] {... ۵ مكيه / المؤمن / ۲۳ [وأجمعوا على أنها ليست بزوجه ولا ملك يمين فنسخها الله بهذه الآيه.

His Statement, the Most High: {Those

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١ - Ahmad b. 'Ali b. Hajar al-'Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah al-'Ilmiyyah; ۲nd edition, ۱۴۱۵ H) [annotator: Muṣtafa 'Abd al-Qadir 'Aṭa], vol. ۱, p. ۲۳۲, ۱۴۵۸

٢ - See Abu Ja'far Muhammad b. Jarir b. Yazid b. Kathir b. Ghalib al-Amuli al-Ṭabari, Jami al-Bayan fi Tawil al-Qur'an (Dar al-Fikr; ۱۴۱۵ H) [annotator: Ṣidqi Jamil al-'Aṭṭar], vol. ۵, p. ۱۷

of them with whom you contract mut'ah, give them their prescribed dowries} [Al-Nisa, ۴:۲۴]. It has been abrogated by his statement, peace be upon him: "I used to allow this mut'ah. Verily, Allah and His Messenger have (now) made it haram. Therefore, let ".those present inform those who are absent

Its abrogation also occurs in the Qur'an where the inheritance of the wife is mentioned, eighth and fourths, and she (the woman in mut'ah) has no share from that. Muhammad b. Idris al-Shafi'i, may the mercy of Allah be upon him, also said that the place of its abrogation is in Surah al-Mumin, and its abrogation is His Statement, the Most High: {And those who guard their private parts, except from their wives or what their right hands possess (i.e. slave-women)...} [Makkan, al-Mumin, ۲۳, verse ۵]. And they agreed that she (i.e. the woman in mut'ah) is not a wife, and not a slave-(woman. Therefore, Allah abrogated it with this verse.(۱

Apparently, Ibn Hazm also believes that the verse was revealed about mut'ah. His :arguments against the temporary marriage are as follows

.i) The ahadith against mut'ah have abrogated the Verse of al-Mut'ah)

.ii) The verse about the inheritance of wives has abrogated the Verse of al-Mut'ah)

iii) A verse revealed in Makkah in Surah al-Mumin abrogated the Verse of al-Mut'ah,) !which was revealed later in al-Madinah

:Well, only an ayah can abrogate an ayah, as Allah Himself declares

ما ننسخ من آيه أو ننسها نأت بخير منها أو مثلها

Whatever a verse We abrogate or cause to

Abu 'Abd Allah Muhammad b. Hazm al-Andalusi, al-Nasikh wa al-Mansukh fi al- - ۱ Qur'an al-Karim (Beirut: Dar al-Kutub al-'Ilmiyyah; ۱st edition, ۱۴۰۶ H) [annotator: Dr. 'Abd al-Ghaffar Sulayman al-Bundari], p. ۳۳

(be forgotten, We bring a better one or one similar to it.(١

:We also read

وإذا بدلنا آيه مكان آيه والله أعلم بما ينزل قالوا إنما أنت مفتر بل أكثرهم لا يعلمون

And when We change a verse in place of another verse, and Allah knows best of what (He sends down, they say, "You are but a forger." Nay, but most of them know not.(٢

:Imam al-Shafi'i (d. ٢٠۴ H) himself says about it

ولا ينسخ كتاب الله إلا كتابه لقول الله} ما ننسخ من آيه أو ننسها نأت بخير منها أو مثلها {وقوله} وإذا بدلنا آيه مكان آيه والله أعلم بما ينزل قالوا إنما أنت مفتر { فأبان أن نسخ القرآن لا يكون إلا بقرآن مثله

The Book of Allah cannot be abrogated except by His Book, due to the Statement of Allah {Whatever a verse We abrogate or cause to be forgotten, We bring a better one or one similar to it} and His Statement {And when We change a verse in place of another verse, and Allah knows best of what He sends down, they say, "You are but a forger"}. So, it is very clear that the abrogation of (a verse of) the Qur'an cannot occur (except through (another verse of) the Qur'an.(٣

:Imam 'Abd al-Razzaq (d. ٢١١ H) has this too

عبد الرزاق قال معمر وقال قتاده وأما قوله نأت بخير منها أو مثلها يقول آيه فيها تخفيف فيها رخصه فيها أمر فيها نهى

:Abd al-Razzaq – Ma'mar – Qatadah'

,{As for His Statement {We bring a better one or one similar to it

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Qur'an ٢:١٠۶ -١

Qur'an ١۶"١٠١ -٢

Muhammad b. Idris al-Shafi'i, Kitab Ikhtilaf al-Hadith, pp. ۴٨٣-۴٨۴ -٣

He says: “A verse in which there is relief, in which there is permission, in which there is a command, in which there is a prohibition.”(1)

Prof. Ibn Yasin says about this riwayah:

وإسناده صحيح

Its chain is sahih.(2)

Therefore, it is an ayah that abrogates or replaces another ayah. As such, if indeed the Verse of al-Mut’ah has been abrogated, there must be an explicit verse in the Qur’an revealed for that purpose. Whoever is unable to provide an abrogating verse must accept the validity of temporary marriage in the Book of Allah unconditionally.

Secondly, it is perfectly possible for the wife in a valid marriage not to inherit her husband. For instance, Imam al-Bukhari (d. 256 H) documents:

حدثنا أبو عاصم عن ابن جريج عن ابن شهاب عن على بن حسين عن عمرو بن عثمان عن أسامه بن زيد رضى الله عنهما : أن النبى صلى الله عليه و سلم قال :لا يرث المسلم الكافر ولا الكافر المسلم

Abu ‘Asim – Ibn Jurayj – Ibn Shihab – ‘Ali b. Husayn – ‘Amr b. ‘Uthman – Usamah b. Zayd, may Allah be pleased with them both:

The Prophet, peace be upon him, said: “The Muslim does not inherit the kafir, and the kafir does not inherit the Muslim.”(3)

So, where a Muslim is married to a Jewish or Christian woman – and she cannot inherit him – does this in any way affect the validity of their nikah? Of course, it does not. In the same manner, the fact that the spouses in a temporary marriage may not

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1- Abd al-Razzaq b. Hamam al-Ṣana’ani, Tafsir al-Qur’an (Riyadh: Maktabah al-‘Rushd; 1st edition, 1410 H) [annotator: Dr. Muṣtafa Muslim Muhammad], vol. 1, p. 55

2- Prof. Dr. Hikmat b. Bashir b. Yasin, Mawsu’at al-Ṣahih al-Masbur min al-Tafsir bi al-Mathur (Madinah: Dar al-Mathar li al-Nashr wa al-Tawzi’ wa al-Ṭaba’at; 1st edition,

۱۴۲۰ H), vol. ۱, p. ۲۱۳

Abu ‘Abd Allah Muhammad b. Isma’il b. Ibrahim b. Mughirah al-Bukhari al-Ju’fi, al- -۳
Jami’ al-Ṣahih al-Mukhtaṣar (Beirut: Dar Ibn Kathir; ۳rd edition, ۱۴۰۷ H) [annotator: Dr. Muṣṭafa Dib al-Bagha], vol. ۶, p. ۲۴۸۴, ۶۳۸۳

inherit each other – depending upon their mutual agreement - does NOT in any way establish its abrogation by any ayah or hadith, nor does it cancel the status of the woman as a "wife". Mut'ah, obviously, is an exception to the general ruling in the .Verse of Inheritance, just as the Muslim-kafirah marriage is

Finally, al-Shafi'i quotes this verse as the abrogator of temporary marriage in the :Qur'an

والـذين هم لفروجهم حـافظون إلاـ على أزواجهم أو مـا ملكت أيمـانهم فـإنهم غير ملـومين فمن ابتغى وراء ذلـك فأولئـك هم العادون

And those who guard their private parts, except from their wives or what their right hands possess (i.e. slave-women), for then, they are free from blame. But whoever (seeks beyond that, then those are the transgressors.(١

His argument is that the woman in mut'ah is neither a "wife" nor a "slave-woman"; and, sexual intercourse is not allowed except with those two. However, there are three fatal problems with the use of this noble ayah against mut'ah. First, it was revealed in Makkah, while the Verse of al-Mut'ah came later in al-Madinah. So, if anything, it would be the later abrogating the former! Secondly, Prophet Muhammad allowed and practised mut'ah during the Madinan era, long after the revelation of both Surah al-Muminun and Surah al-Ma'arij in Makkah. If we accepted the Sunni argument, it would mean that he was permitting and indulging in illegal sex! May Allah protect us from such blasphemous thoughts. Lastly, mut'ah is a form of nikah (marriage), which means that both

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Qur'an ٢٣:٥-٧ and ٧٠:٢٩-٣١ -١

parties are husband and “wife”. Since those verses have allowed sex with “wives”, !then they have defended mut’ah as well

So, as things stand, there is NO ayah in the entire Qur’an that has abrogated the Verse of al-Mut’ah. Meanwhile, only a verse can abrogate a verse. With that, then, nothing can abrogate the Verse of al-Mut’ah, and it shall remain in force till the Qiyamah. By extension, mut’ah itself is, on the strength of that verse, valid till the end .of life on earth

This is the point of departure between the Shi’ah and the Sunnis. The Ahl al-Sunnah accept the authenticity of ahadith which contradict the Verse of al-Mut’ah, and use them to overturn it. By contrast, the Shi’ah throw out any riwayah that disagrees with any verse of the Kitab. So, naturally, all ahadith against mut’ah – whatsoever their sources or chains – are fabrications (whether intentional or accidental) by Shi’i :standards. Al-Kulayni reports

عده من أصحابنا، عن أحمد بن محمد بن خالد، عن أبيه، عن النضر بن سويد، عن يحيى الحلبى، عن أيوب بن الحر قال: سمعت أبا عبد الله عليه السلام يقول :كل شئ مردود إلى الكتاب والسنه، وكل حديث لا يوافق كتاب الله فهو زخرف

A number of our companions – Ahmad b. Muhammad b. Khalid – his father – al-Naḍar :b. Suwayd – Yahya al-Halabi – Ayyub b. al-Hurr

I heard Abu ‘Abd Allah, peace be upon him, saying: “Everything is returned back to the Book and the Sunnah, and EVERY hadith that does not agree with the

(Book of Allah is a vanity."(1)

:Shaykh al-Majlisi comments

صحيح

(Sahih(2)

:And Shaykh Hadi al-Najafi agrees

الروايه صحيحه الإسناد

(The report has a sahih chain(3)

:Al-Kulayni here again records

محمد بن إسماعيل، عن الفضل بن شاذان، عن ابن أبى عمير، عن هشام بن الحكم وغيره، عن أبى عبد الله عليه السلام قال: خطب النبى صلى الله عليه وآله بمنى فقال: أيها الناس ما جاء كم عنى يوافق كتاب الله فأنا قلته وما جاء كم يخالف كتاب الله فلم أقله.

Muhammad b. Isma'il – al-Faḍl b. Shadhan – Ibn Abi 'Umayr – Hisham b. al-Hakam :and others – Abu 'Abd Allah, peace be upon him

The Prophet, peace be upon him and his family, delivered a khutbah at Muna and said, "O mankind! Whatsoever comes to you from me that agrees with the Book of Allah, I truly said it. But, whatsoever comes to you that contradicts the Book of Allah, I never (said it."(4)

:Al-Majlisi says

مجهول كالصحيح

(Majhul ka al-Sahih(5)

:Prof. 'Ali Akbar al-Ghiffari also declares

سند صحيح

(A sahih chain(۶

Our beloved teacher, Shaykh al-Saduq (d. ۳۸۱ H), also thereby submits, in line with the :sahih ahadith

وكل حديث لا يوافق كتاب الله فهو باطل

(Every hadith that does not agree with the Book of Allah is a fabrication.(۷

:Ayatullah Ja'far Subhani too says

أمر الأئمه عليهم السلام بعرض الأحاديث على الكتاب والسنه، وأن كل حديث لا يوافق كتاب الله ولا سنه نبيه يضرب به عرض الجدار .وقد تواترت الروايات على الترجيح بموافقه الكتاب والسنه

The Imams, peace be upon them, ordered that the ahadith must be compared to the Book and the Sunnah, and that every single hadith that

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۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Uṣul min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۱, p. ۶۹, ۳

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۱, p. ۲۲۹

۳- Hadi al-Najafi, Mawsu'at Ahadith Ahl al-Bayt (Beirut: Dar Ihya al-Turath al-'Arabi; ۱st edition, ۱۴۲۳ H), vol. ۹, p. ۳۹۴, ۱۱۸۹۹

۴- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Uṣul min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۱, p. ۶۹, ۵

۵- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۱, p. ۲۲۹

۶- Prof. 'Ali Akbar al-Ghiffari, Dirasat fi 'Ilm al-Dirayah Talkhiṣ Miqyas al-Hidayah (Jami'at al-Imam al-Ṣadiq; ۱st edition), p. ۲۵۹

۷- Abu Ja'far Muhammad b. 'Ali b. Husayn b. Babuyah al-Qummi, al-I'tiqadat (Dar al-Mufid; ۲nd edition, ۱۴۱۴ H) [annotator: 'Iṣam 'Abd al-Sayyid], Ch. ۱, p. ۲۲

does not agree with the Book of Allah or the Sunnah of His Prophet must be thrown out. There are mutawatir reports about weighing (ahadith) on the basis of agreement (with the Book and the Sunnah.[1])

:Ayatullah Makarim al-Shirazi even applies this rule to reject a hadith

إن هـذا الحـديث لاـ ينسـجم مع نص القرآن .ووفقـا للقواعـد الأصوليه التى عنـدنا، أن كل حـديث لا يوافق كتاب الله ساقط عن الاعتبار، ولا يمكن التعويل على أنه حديث شريف من أحاديث النبى أو المعصومين عليهم السلام.

Certainly, this hadith does not agree with the text of the Qur'an. And, based on the principles of usul with us, that every single hadith that does not agree with the Book of Allah is unreliable, and it is impossible to depend upon the fact that it is a noble hadith (from the ahadith of the Prophet or the infallibles, peace be upon them.[2])

So, since mut'ah is halal in the Qur'an, and there is no ayah that has abrogated it, then every single hadith – wherever it comes from – that suggests its illegitimacy is "a vanity", a fabrication. The only way a Sunni can make a valid argument against temporary marriage is to quote a verse of the Kitab that truly repeals it. Anything .short of that is only a child's play

Anyway, there is a second ayah – apart from the Verse of al-Mut'ah – which, though :NOT revealed about temporary marriage, applies to it

يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا إن

۱- Ja'far al-Subhani, Kulliyat fi 'Ilm al-Rijal (Qum: Muasassat al-Nashr al-Islami; ۳rd edition, ۱۴۱۴ H), p. ۲۷

۲- Naṣir Makarim al-Shirazi, al-Amthal fi Tafsir Kitab Allah al-Munzal, vol. ۱۲, p. ۳۴

الله لا يحب المعتدين

O you who believe! Do not make haram the good things which Allah has made halal for you; and do not exceed the limits; surely Allah does not love those who exceed the limits.(1)

In the last chapter, we see how Ibn Mas'ud considered mut'ah as one of "the good things" mentioned in this verse. In this report of Imam al-Bukhari, the reason is explicitly given:

حدثنا قتيبه بن سعيد حدثنا جرير عن إسماعيل عن قيس قال : قال عبد الله كنا نغزو مع رسول الله صلى الله عليه و سلم وليس لنا شيء فقلنا ألا نستخصى ؟ فنهانا عن ذلك ثم رخصلنا أن ننكح المرأه بالثوب ثم قرأ علينا { يا أيها الذين أمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا أن الله لا يحب المعتدين }

Qutaybah b. Sa'id – Jarir – Isma'il – Qays – 'Abd Allah (b. Mas'ud):

We were on an expedition with the Messenger of Allah, peace be upon him, and we had nothing with us. So, we said, "Should we castrate ourselves?" But, he forbade us to do that. Then, he permitted us to do nikah (marriage) with the woman, giving her a garment (as the dowry). Then, he recited to us {O you who believe! Do not make haram the good things which Allah has made halal for you; and do not exceed the limits; surely Allah does not love those who exceed the limits}.(2)

Yes, it was the Prophet himself who first quoted the verse in support of mut'ah, and Ibn

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1- Qur'an ۵:۸۷

2- Abu 'Abd Allah Muhammad b. Isma'il b. Ibrahim b. Mughirah al-Bukhari al-Ju'fi, al-Jami' al-Ṣahih al-Mukhtaṣar (Beirut: Dar Ibn Kathir; ۳rd edition, ۱۴۰۷ H) [annotator: Dr. Muṣṭafa Dib al-Bagha], vol. ۵, p. ۱۹۵۳, ۴۷۸۷

.Mas’ud only followed this Sunnah later

:Imam Ahmad (d. ۲۴۱ H) also documents

حدثنا عبد الله حدثني أبي ثنا يحيى بن زكريا قال أخبرني إسماعيل عن قيس عن بن مسعود قال كنا مع رسول الله صلى الله عليه و سلم ليس لنا نساء قلنا يا رسول الله ألا نستخصي فنهانا عن ذلك فقال { يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم }

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – Yahya b. Zakariya – Isma’il – ‘ :Qays – Ibn Mas’ud

We were with the Messenger of Allah. There were no women with us. So, we said, “O Messenger of Allah, should we castrate ourselves?” But, he forbade us from doing that AND said {O you who believe! Do not make haram the good things which Allah (has made halal for you} (۱)

:Shaykh al-Arnauṭ comments

إسناده صحيح على شرط الشيخين

(Its chain is sahih upon the standard of the two Shaykhs. (۲)

The ayah in question is from al-Maidah, the last revealed surah of the Qur’an. Imam :al-Hakim (d. ۴۰۳ H) reports

حدثنا أبو العباس محمد بن يعقوب ثنا بحر بن نصر الخولاني قال : قرىء على عبد الله بن وهب أخبرك معاويه بن صالح عن أبي الزاهريه عن جبير بن نفير قال حججت فدخلت على عائشه رضي الله عنها فقالت لي : يا جبير تقرأ المائده ؟ فقلت : نعم قالت : أما أنها آخر سوره نزلت فما وجدتم فيها من حلال فاستحلوه وما وجدتم من حرام فحرموه

– Abu al-‘Abbas Muhammad b. Ya’qub – Bahr b. Nasr al-Khawlani – ‘Abd Allah b. Wahb

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Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) -۱ [annotator: Shu’ayb al-Arnaut], vol. ۱, p. ۴۵۰, ۴۳۰۲

Ibid -۲

:Mu'awiyah b. Salih – Abu al-Zahiriyyah – Jubayr b. Nufayr

I did Hajj and went to 'Aishah, may Allah be pleased with her, and she said to me, "O Jubayr! Do you recite al-Maidah?" I said, "Yes". She said, "Verily, it was the last surah to be revealed. So, whatsoever you find in it to be halal, declare it as halal; and whatsoever you find to be haram, declare it as haram.(۱)

:Al-Hakim submits

هذا حديث صحيح على شرط الشيخين

This hadith is sahih upon the standard of the two Shaykhs.(۲)

:Imam al-Dhahabi (d. ۷۴۸ H) agrees

على شرط البخارى ومسلم

Upon the standard of al-Bukhari and Muslim.(۳)

:Imam Ahmad has documented it through his own sanad too

حدثنا عبد الله حدثنى أبى ثنا عبد الرحمن بن مهدى قال ثنا معاويه عن أبى الزاهريه عن جبير بن نفير قال دخلت على عائشه فقالت هل تقرأ سوره المائده قال قلت نعم قالت فإنها آخر سوره نزلت فما وجدتم فيها من حلال فاستحلوه وما وجدتم فيها من حرام فحرموه وسألتها عن خلق رسول الله صلى الله عليه و سلم فقالت القرآن

'Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – 'Abd al-Rahman b. Mahdi – :Mu'awiyah – Abu al-Zahiriyyah – Jubayr b. Nufayr

I went to 'Aishah and she said, "Do you recite Surah al-Maidah?" I said, "Yes". She said, "For, verily, it was the last surah to be revealed. So, whatsoever you find in it to be halal, then declare it halal; and whatsoever you find in it to be haram, declare it haram." Then I asked her about the

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۱- Abu 'Abd Allah Muhammad b. 'Abd Allah al-Hakim al-Naysaburi, al-Mustadrak 'ala

al-Ṣahihayn (Beirut: Dar al-Kutub al-'Ilmiyyah; ١st edition, ١۴١١ H) [annotator: Muṣtafa 'Abd al-Qadir 'Aṭa], vol. ٢, p. ٣۴٠, ٣٢١٠

Ibid -٢

Ibid -٣

character of the Messenger of Allah, peace be upon him, and she said, “The Qur’an.”[1]

:Al-Arnauṭ states

إسناده صحيح

Its chain is sahih[2]

Apparently, nothing declared halal in Surah al-Maidah was ever abrogated. Moreover, the verses of the surah came very late in revelation, and were therefore very close to the time of the Prophet’s death.

We are unsure about that exact military expedition which Ibn Mas’ud was making reference to. However, we know that a lot – perhaps the majority - of its Muslim soldiers were youths as stated by him. He himself died during the rule of ‘Uthman in ۳۲ H[3] and his age was sixty three then[4]. This means that he was already ۳۱ during the Hijrah and had reached ۳۳ by the time of the Battle of Badr – the first battle in Islam. So, whenever that expedition was, Ibn Mas’ud was, by all indications, already beyond youthfulness. Therefore, when he said “and we were youths”, he was most probably referring only to the dominant composition of the army.

It seems that this is also what explains the tone of the ayah. The Verse of al-Mut’ah had been revealed before that expedition. So, when these youthful Sahabah talked of castrating themselves instead of going into mut’ah, it looked as though they had made it haram for themselves. As a result, the Prophet quoted Qur’an ۵:۸۷ (which also had been revealed before then) to declare that temporary marriage was one of the good things mentioned in that ayah, that it was made halal

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۱- Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) [annotator: Shu’ayb al-Arnaut], vol. ۶, p. ۱۸۸, ۲۵۵۸۸

۲- Ibid

۳- Abu al-‘Ala Muhammad b. ‘Abd al-Rahman b. ‘Abd al-Rahim al-Mubarakfuri, Tuhfat al-Ahwazi bi Sharh Jami’ al-Tirmidhi (Beirut: Dar al-Kutub al-‘Ilmiyyah; ۱st edition, ۱۴۱۰ H), vol. ۱۰, p. ۲۰۸

۴- Shams al-Din Muhammad b. Ahmad b. ‘Uthman al-Dhahabi, Tarikh al-Islam wa Wafiyat al-Mashahir wa al-A’lam (Beirut: Dar al-Kitab al-‘Arabi; ۱st edition, ۱۴۰۷ H) [annotator: Dr. ‘Umar ‘Abd al-Salam Tadmuri], vol. ۳, p. ۳۸۹

by Allah, and that the Muslims must not make it haram for themselves. Then, he gave :them a direct command. Imam Abu Ya'la (d. ٣٠٧ H) records

حدثنا أبو خيثمه حدثنا مروان بن معاويه الفزارى عن إسماعيل بن أبى خالد عن قيس بن أبى حازم قال : سمعت عبد الله بن مسعود يقول كنا نغزو مع رسول الله صلى الله عليه و سلم ليس لنا نساء فقلنا : يارسول الله ألا نستخصى ؟ فنهانا عن ذلك وأمرنا أن ننكح المرأه بالثوب ثم قرأ عبد الله : { يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله }

Abu Khaythamah – Marwan b. Mu'awiyah al-Fazari – Isma'il b. Abi Khalid – Qays b. Abi :Hazim

I heard 'Abd Allah b. Mas'ud saying: "We were on an expedition with the Messenger of Allah, peace be upon him. There were no women with us. So, we said, "O Messenger of Allah, should we castrate ourselves?" But, he forbade us from doing that AND HE ORDERED US to do nikah with the woman, giving her the garment (as the dowry)". Then, 'Abd Allah recited {O you who believe! Do not make haram the good things (which Allah has made halal for you}. (١)

:Shaykh Dr. Asad says

إسناده صحيح

(Its chain is sahih(٢

This order, in some other reports, is also termed a "permission" by Ibn Mas'ud. Perhaps, he did this because the Messenger – being the field commander – had the right to temporarily prohibit certain halal things to his soldiers in order to maintain strict discipline, high morale and

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١- Abu Ya'la Ahmad b. 'Ali b. Muthanna al-Mawṣili al-Tamimi, Musnad (Damascus: Dar al-Mamun li al-Turath; ١st edition, ١٤٠٤ H) [annotator: Dr. Husayn Salim Asad], vol. ٩, p. ٢٦٠, ٥٣٨٢

٢- Ibid

strong energy. Normally, even if Ibn Mas'ud and the others had initially considered mut'ah to be halal, they would nonetheless have needed the Prophet's permission to go ahead with it, as long as they were still on the military expedition. Obviously, his order to them to perform mut'ah contained two things together: a permission and a .command

:Imam Ibn Hibban (d. ٣٥۴ H) also documents

أخبرنا أحمد بن على بن المثنى قال حدثنا أبو خيثمه قال حدثنا مروان بن معاويه عن إسماعيل بن أبى خالد عن قيس بن أبى حازم قال سمعت بن مسعود يقول كنا نغزو مع رسول الله صلى الله عليه وسلم ليس لنا نساء فقالوا يا رسول الله ألا نستخصى فنهانا عن ذلك وأمرنا ان ننكح المرأه بالثوب ثم قرأ عبد الله هذه الآيه يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم

Ahmad b. 'Ali b. al-Muthanna - Abu Khaythamah – Marwan b. Mu'awiyah al-Fazari – :Isma'il b. Abi Khalid – Qays b. Abi Hazim

I heard Ibn Mas'ud saying: "We were on an expedition with the Messenger of Allah, peace be upon him. There were no women with us. So, we said, "O Messenger of Allah, should we castrate ourselves?" But, he forbade us from doing that AND HE ORDERED US to do nikah with the woman, giving her the garment (as the dowry)". Then, 'Abd Allah recited this verse {O you who believe! Do not make haram the good (things which Allah has made halal for you}. (١)

:Allamah al-Albani states'

صحيح

(Sahih(٢)

:And Shaykh al-Arnauṭ concurs

إسناده صحيح على شرط الشيخين

Its

١ – Abu Hatim Muhammad b. Hibban b. Ahmad b. Hibban b. Mu’adh b. Ma’bad al-Tamimi al-Darimi al-Busti, Ṣahih Ibn Hibban bi Tartib Ibn Balban (Beirut: Muasassat al-Risalah; ٢nd edition, ١۴١۴ H) [annotators: Muhammad Naṣir al-Din al-Albani and Shu’ayb al-Arnaut], vol. ٩, p. ۴۴٨, ۴١۴١

٢- Ibid

(chain is sahih upon the standard of the two Shaykhs(1)

The bottomline of all this is that the Prophet described mut'ah as one of "the good things" which Allah has made halal, mentioned in a verse in Surah al-Maidah. His companion, Ibn Mas'ud, followed him strictly in this Sunnah as well, after him. Well, our brothers from the Ahl al-Sunnah routinely describe mut'ah as "fornication and adultery". So, we ask: are fornication and adultery good, halal things?

Moreover, one of the very last ayahs of the Qur'an to be revealed re-affirm the halalness of "the good things":

اليوم أحل لكم الطيبات

(Today, the good things are made halal to you.(2)

Once more, this is from al-Maidah where nothing of halal and haram has been abrogated. As such, this verse also re-declares mut'ah to be halal since it is one of "the good things", according to the Prophet himself.

We equally read these verses:

يسألونك ماذا أحل لهم قل أحل لكم الطيبات

They ask you (O Muhammad) what is halal for them. Say: "The good things are made halal for you."(3)

And:

الـذين يتبعون الرسول النبى الأمى الذى يجدونه مكتوبا عندهم فى التوراه والإنجيل يأمرهم بالمعروف وينهاهم عن المنكر ويحل لهم الطيبات ويحرم عليهم الخبائث ويضع عنهم إصرهم والأغلال التى كانت عليهم

Those who follow the Messenger, the Ummi Prophet, whom they find written with them in al-Tawrat and al-Injil, he orders them with good deeds and forbids them from evil deeds, and he makes the good things halal for them and makes the impure things haram to them, and removes

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۱- Ibid

۲- Qur’an ۵:۵

۳- Qur’an ۵:۴

from them their burden and shackles which they were upon.[1]

We know that he "ordered" the performance of mut'ah. In that case, it is one of the "good deeds". We also know that he explicitly called mut'ah one of "the good things". This assures us that he always declared it halal till his death, in line with the Qur'an of his Lord, and never made it haram – not even for a split second.

Meanwhile, let us equally look at this from another angle. In one of the Makkan surahs, Allah declares haram all forms of indecent behaviours:

قل إنما حرم ربى الفواحش ما ظهر منها وما بطن والإثم والبغى بغير الحق وأن تشركوا بالله ما لم ينزل به سلطانا وأن تقولوا على الله ما لا تعلمون

Say: "My Lord has only made haram all indecencies, those of them that are apparent as well as those that are concealed, and sin and rebellion without justice, and that you associate with Allah that for which He has not sent down any authority, and that you say against Allah what you do not know".[2]

So, fornication and adultery – both of which are indecencies – were already made haram before the Hijrah. Our Sunni brothers say that mut'ah also constitutes fornication and adultery. As such, by their logic, it was banned during the Makkan era by Allah and His Messenger. But then, on what basis was the Prophet practising mut'ah along with his Sahabah after the Hijrah? On what basis was he also "allowing" and "commanding" them

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۱- Qur'an ۷:۱۵۷

۲- Qur'an ۷:۳۳

to contract temporary marriages? Was he contradicting his Lord? Was he declaring the haram to be halal? Was he encouraging and enforcing fornication and adultery?

Even worse still for our Sunni brothers, this is what the Kitab has said:

قل إن الله لا يأمر بالفحشاء

Say: “Verily, Allah does NOT command indecencies.”(1)

In fact, He actually forbids them:

إن الله يأمر بالعدل والإحسان وإيتاء ذى القربى وينهى عن الفحشاء والمنكر والبغى

Verily, Allah commands justice, good deeds and the giving to the kindred, and He forbids indecencies, and evil deeds and rebellion.(2)

So, we put this to the Ahl al-Sunnah: when Allah commands us to give dowries to mut’ah wives in the Verse of al-Mut’ah, what has He done?

4. The Sunni Contradictions

When exactly was mut’ah banned permanently? This is a question which Sunnis will never be able to firmly answer till the end of the world. This is due to the severe conflicts between their “authentic” ahadith on the matter. For instance, Imam Muslim (d. 261 H) reports:

وحدثنا محمد بن عبدالله بن نمير حدثنا أبى حدثنا عبيدالله عن ابن شهاب عن الحسن وعبدالله ابنى محمد بن على عن أبيهما عن على أنه سمع ابن عباس يلين فى متعه النساء فقال مهلا يا ابن عباس فإن رسول الله صلى الله عليه و سلم نهى عنها يوم خيبر وعن لحوم الحمر الإنسيه

Muhammad b. ‘Abd Allah b. Numayr – my father – ‘Ubayd Allah – Ibn Shihab – al-Hasan and ‘Abd Allah, sons of Muhammad b. ‘Ali – their father:

‘Ali heard Ibn ‘Abbas allowing mut’ah with women. So, he said, “Don’t

۱- Qur’an ۷:۲۸

۲- Qur’an ۱۶:۹۰

be hasty, O Ibn ‘Abbas, for the Messenger of Allah, peace be upon him, forbade it on (the Day of Khaybar as well as the flesh of domestic asses.”(١)

The incident, allegedly witnessed by Muhammad b. ‘Ali, apparently took place after the death of the Prophet, sallallahu ‘alaihi wa alihi. Of course, this eye-witness was born only after the Messenger of Allah had passed away. Here, we see Amir al-Muminin, ‘alaihi al-salam, supposedly citing the ban at Khaybar to stop Ibn ‘Abbas from allowing mut’ah after the Prophet had died. This suggests that the ban at Khaybar was a permanent one. It is the only logical explanation for the action attributed to ‘Ali. Interestingly, we often see the Ahl al-Sunnah quote this hadith as well as evidence of the permanent prohibition of mut’ah. The Battle of Khaybar occurred in ٧ H. So, mut’ah supposedly had been banned eternally since then.

But, Imam Muslim has another interesting report:

حدثنا إسحاق بن إبراهيم أخبرنا يحيى بن آدم حدثنا إبراهيم بن سعد عن عبدالملك بن الربيع بن سبره الجهنى عن أبيه عن جده قال أمرنا رسول الله صلى الله عليه و سلم بالمتعه عام الفتح حين دخلنا مكه ثم لم نخرج منها حتى نهانا عنها

Ishaq b. Ibrahim – Yahya b. Adam – Ibrahim b. Sa’d – ‘Abd al-Malik b. al-Rabi’ b. Sabrah al-Juhani – his father (al-Rabi’) – his grandfather (Sabrah):

The Messenger of Allah, peace be upon him, ORDERED us to perform mut’ah in the Year of the Conquest as we entered Makkah. Then, we did

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١- Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. ٢, p. ١٠٢٧, (١۴٠٧ (٣١)

(not come out of it until he forbade us from it.(1)

What? But, this was in ۸ H, a year after Khaybar! What happened to the permanent ban, which ‘Ali supposedly quoted against Ibn ‘Abbas?

Meanwhile, this must be put in its proper context. Sabrah was one of the soldiers who conquered Makkah with the Messenger of Allah, as Imam Muslim reports:

حدثنا أبو كامل فضيل بن حسين الجحدرى حدثنا بشر (يعنى ابن مفضل) حدثنا عماره بن غزيه عن الربيع بن سبره أن أباه غزا مع رسول الله صلى الله عليه و سلم فتح مكه قال فأقمنا بها خمس عشره (ثلاثين بين ليله ويوم) فأذن لنا رسول الله صلى الله عليه و سلم فى متعه النساء

Abu Kamil Fuḍayl b. Husayn al-Jahdari – Bishr b. Mufaḍḍal – ‘Amarah b. Ghaziyyah:

Al-Rabi’ b. Sabrah reported that his father was on an expedition with the Messenger of Allah, peace be upon him, during the Conquest of Makkah. He (Sabrah) said: “So we stayed there for fifteen days (including thirteen full days), and the Messenger of Allah, peace be upon him, permitted us to do mut’ah with women.”(2)

As such, when Sabrah “entered Makkah”, he was doing so as part of a military force that had conquered the holy city. As the soldiers were entering as conquerors, the Prophet commanded them to do mut’ah, and they camped in there for fifteen days.

The Year of the Conquest of Makkah is also known as the Year of al-Awṭas, and this is another relevant riwayah of Imam Muslim

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1- (22) Ibid, vol. ۲, p. ۱۰۲۳, ۱۴۰۶

2- (20) Ibid, vol. ۲, p. ۱۰۲۳, ۱۴۰۶

:concerning it

حدثنا أبو بكر بن أبى شيبه حدثنا يونس بن محمد حدثنا عبدالواحد بن زياد حدثنا أبو عميس عن إياس بن سلمه عن أبيه قال رخص رسول الله صلى الله عليه و سلم عام أوطاس فى المتعه ثلاثا ثم نهى عنها

Abu Bakr b. Abi Shaybah – Yunus b. Muhammad – 'Abd al-Wahid b. Ziyad – Abu :('Umays – Iyas b. Salama – his father (Salama

The Messenger of Allah, peace be upon him, allowed mut'ah for three days during the (Year of Awṭas. Then, he forbade it.(١

:The annotator, Shaykh 'Abd al-Baqi, explains

(عام أوطاس) هذا تصريح بأنها أبيحت يوم فتح مكه وهو ويوم أوطاس شيء واحد

Year of Awṭas) this is an explicit statement that it was allowed on the day of the) (conquest of Makkah, which is also the same as the Day of Awṭas.(٢

So, mut'ah was supposedly made compulsory as the conquering soldiers entered .Makkah, and was banned again three days later

:Interestingly, Imam Muslim has this "sahih" report which overturns everything

وحدثنا أبو بكر بن أبى شيبه حدثنا ابن عليه عن معمر عن الزهرى عن الربيع بن سبره عن أبيه أن رسول الله صلى الله عليه و سلم نهى يوم الفتح عن متعه النساء

Abu Bakr b. Abi Shaybah – Ibn 'Ulayyah – Ma'mar – al-Zuhri – al-Rabi' b. Sabrah – his :(father (Sabrah

The Messenger of Allah, peace be upon him, forbade mut'ah with women on the Day (of the Conquest.(٣

?That same day? Not three days after it? What then are we supposed to believe

Meanwhile, 'Umar supposedly considered the ban of

۱- ۱۸) Ibid, vol. ۲, p. ۱۰۲۲, ۱۴۰۵)

۲- Ibid

۳- ۲۵) Ibid, vol. ۲, p. ۱۰۲۳, ۱۴۰۶)

mut’ah after this three-day allowance – which alleged occurred only during the conquest of Makkah - as permanent. Imam Ibn Majah (d. ٢٧٣ H) tells us:

حدثنا محمد بن خلف العسقلانى. ثنا الفريابى عن أبان بن أبى حازم، عن أبى بكر بن حفص، عن ابن عمر، قال: لما ولى عمر بن الخطاب، خطب الناس فقال: إن رسول الله صلى الله عليه وسلم أذن لنا فى المتعه ثلاثا، ثم حرمها. والله !لا أعلم أحدا يتمتع وهو محصن إلا رجمته بالحجاره إلا أن يأتينى بأربعه يشهدون أن رسول الله أحلها بعد إذ حرمها.

Muhammad b. Khalaf al-‘Asqalani – al-Faryabi – ‘Aban b. Abi Hazim – Abu Bakr b. Hafs – Ibn ‘Umar:

When ‘Umar b. al-Khaṭṭab became the wali, he addressed the people and said, “Verily, the Messenger of Allah, peace be upon him, permitted us to practise mut’ah for three days. Then, he made it haram. I swear by Allah, if I know of any married person doing mut’ah, I will stone him with stones except if he brings to me four people who testify that the Messenger of Allah (later) declared it halal after prohibiting it.”(١)

Shaykh al-Arnauṭ and two others say:

حديث صحيح وهذاسند حسن

A sahih hadith, and this chain is hasan.(٢)

NOTE: This hadith is actually ḍa’if. Concerning one of its narrators, al-Hafiẓ (d. ٨٥٢ H) states:

أبان بن عبد الله بن أبى حازم بن صخر بن العيله بفتح العين المهمله البجلى الأحمسى الكوفى صدوق فى حفظه لين

Aban b. ‘Abd Allah b. Abi Hazim b. Sakhr b. al-‘Aylah al-Bajali al-Ahmasi al-Kufi: Saduq (very truthful), there

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١- Abu ‘Abd Allah Muhammad b. Yazid b. Majah al-Qazwini, al-Sunan (Damascus: Dar al-Risalah al-‘Alamiyyah; ١st edition, ١۴٣٠ H) [annotators: Shu’ayb al-Arnauṭ, Muhammad Kamil and Ahmad Barhum], vol. ٣, p. ١٣٨, ١٩۶٣

٢- Ibid

(is weakness in his memory.(1)

:Then, Imam Ibn Hibban (d. ٣٥٤ H) gives more details

أبـان بن عبـد الله البجلى من أهـل الكوفه وهو الـذى يقال له أبان بن أبى حازم، يروى عن أبان بن تغلب وأهل الكوفه، روى عنه الثورى ووكيع والنـاس. وكـان ممن فحش خطؤه وانفرد بالمناكير، أخبرنا الهمـدانى قال سـمعت عمرو بن على يقول: ما سـمعت يحيى بن سعيد القطان يحدث عنه بشئ قط - يعنى أبان البجلى.

Aban b. ‘Abd Allah al-Bajali, from the people of Kufa, and he was the one called Aban b. Abi Hazim. He narrated from Aban b. Taghlib and the people of Kufah. Al-Thawri, Waki’ and the people narrated from him. He was one of those whose mistakes were terrible, and who narrated manakir (repugnant reports) without corroboration. Al-Hamdani informed us, and said: I heard ‘Amr b. ‘Ali saying: “I never heard Yahya b. (Sa’id al-Qaṭṭan ever narrating anything from him” – he meant Aban al-Bajali.(2)

In normal circumstances, a narrator like this is not just ḍa’if, but also munkar. So, his reports are very weak and thrown away. But, here we are again with our Sunni !‘ulama

:Yet, even this “backup” provided by Imam al-Bayhaqi (d. ٤٥٨ H) does no good either

وقـد حـدثنا أبو محمـد عبـد الله بن يوسف الأصـبهانى أنبأ أبو محمـد عبد الرحمن بن يحيى الزهرى القاضـى بمكه ثنا محمد بن إسـماعيل الصـائغ ثنا أبو خالـد الأموى ثنا منصور بن دينار ثنا عمر بن محمـد عن سالم بن عبـد الله عن أبيه عن عمر بن الخطاب رضى الله عنه قال صعد عمر على

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1 - Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah al-‘Ilmiyyah; ٢nd edition, ١٤١٥ H) [annotator: Muṣtafa ‘Abd al-Qadir ‘Aṭa], vol. ١, p. ٥١, ١٤٠

2 - Abu Hatim Muhammad b. Hibban b. Ahmad al-Tamimi al-Busti, Kitab al-Majruhin [annotator: Mahmud Ibrahim Zayad], vol. ١, p. ٩٩

المنبر فحمـد الله وأثنى عليه ثم قال ما بال رجال ينكحون هـذه المتعه وقـد نهى رسول الله صـلى الله عليه و سـلم عنها ألا وإنى لا أوتى بأحد نكحها إلا رجمته

Abu Muhammad ‘Abd Allah b. Yusuf al-Asbahani – Abu Muhammad ‘Abd al-Rahman b. Yahya al-Zuhri al-Qaḍi – Muhammad b. Isma’il al-Saigh – Abu Khalid al-Umawi – Mansur b. Dinar – ‘Umar b. Muhammad – Salim b. ‘Abd Allah – his father – ‘Umar b. al-Khaṭṭab, may Allah be pleased with him:

‘Umar climbed the pulpit, and thanked Allah and extolled Him. Then, he said, “What is the problem of men who are contracting the nikah of this mut’ah despite that the Messenger of Allah, peace be upon him, had forbidden it? Take note: if anyone who has contracted its nikah is brought to me, I will stone him.”(١)

Al-Bayhaqi himself expresses doubt about the authenticity of this riwayah immediately after quoting it:

فهذا إن صح يبين أن عمر رضى الله عنه إنما نهى عن نكاح المتعه لأنه علم نهى النبى صلى الله عليه و سلم عنه

So, this one, IF AUTHENTIC, shows that ‘Umar, may Allah be pleased with him, only forbade the nikah of mut’ah because he knew of its prohibition by the Prophet, peace be upon him.(٢)

This was perhaps due to the presence of Mansur b. Dinar in the sanad. Al-Hafiẓ documents about him:

منصور بن دينار السـهمى :عن الزهرى قال النسائى ليس بالقوى وقال البخارى روى عن نافع وحماد فى حديثه نظر * وقال يحيى بن معين ضعيف قلت ... وذكره العقيلى

١- Abu Bakr Ahmad b. al-Husayn b. ‘Ali b. Musa al-Bayhaqi, Sunan al-Bayhaqi al-Kubra (Makkah al-Mukarramah: Maktabah Dar al-Baz; ١٤١٤ H) [annotator: Muhammad ‘Abd al-Qadir ‘Aṭa], vol. ٧, p. ٢٠٦, ١٣٩٤٩

٢- Ibid

فی الضعفاء ... وذکره ابن حبان فی الثقات ... وقال أبو زرعه صالح وقال أبو حاتم لیس به بأس وقال العجلی لا بأس به

Mansur b. Dinar al-Sahmi: he narrated from al-Zuhri. Al-Nasai said: "He is not strong." Al-Bukhari said, "He narrated from Nafi' and Hammad. THERE IS PROBLEM WITH HIS HADITH." Yahya b. Ma'in said: "Ḍa'if." I say: ... And al-'Aqili has mentioned him in al-Ḍu'afa ... and Ibn Hibban mentioned him in al-Thiqat ... Abd Abu Zur'a said: "Salih" while Abu Hatim said, "There is no problem with him." Al-'Ijli also said, "There is no problem with him."(۱)

We have capitalized, in particular, the statement of Imam al-Bukhari (d. ۲۵۶ H), because it is a jarh mufassar. Imam al-Dhahabi (d. ۷۴۸ H) has narrated that al-Bukhari himself said:

إذا قلت فلان فی حدیثه نظر، فهو متهم واه.

When I say "there is problem with the hadith of so-and-so", then he is accused (of fabricating ahadith), weak.(۲)

This changes everything, since a jarh mufassar supercedes any praise for the narrator. That then makes this second report mawḍu' or at least ḍa'if jiddan.

Meanwhile, having exposed the weakness of both riwayahs above, we will nonetheless proceed to take them into consideration within our discourses, in order to leave our opponents with no excuse anywhere.

So, simply put, the second permanent ban of mut'ah occurred a year after the first one. 'Umar here challenged everyone to bring forward any evidence that the Prophet ever allowed it after this second ban – and none, it seems, ever came forward.

۱- Shihab al-Din Abu al-Faḍl Ahmad b. 'Ali b. Hajar al-'Asqalani, Lisan al-Mizan (Beirut: Manshurat Muasassat al-A'lami li al-Maṭbu'at; ۲nd edition, ۱۳۹۰ H), vol. ۶, p. ۹۵, ۳۳۱

۲- Shams al-Din Muhammad b. Ahmad b. 'Uthman al-Dhahabi, Siyar A'lam al-Nubala (Beirut: Muasassat al-Risalah; ۴th edition, ۱۴۰۶ H) [annotators of the twelfth volume:

Shu’ayb al-Arnauṭ and Ṣalih al-Samar], vol. ١٢, p. ۴۴١, ١٧١

But, what was he even suggesting? Has the Qur'an not banned zina several years before Khaybar and the conquest of Makkah? Was 'Umar implying that the Prophet ?could have permitted fornication after the ban by Allah

Yet, there is a further report of a third permanent ban on mut'ah two years after the :(conquest of Makkah! This is the hadith by Imam al-Darimi (d. ٢٥٥ H

أخبرنا جعفر بن عون عن عبد العزيز بن عمر بن عبد العزيز عن الربيع بن سبره ان أباه حدثه أنهم ساروا مع رسول الله صلى الله عليه و سلم فى حجه الوداع فقال استمتعوا من هذه النساء ... ثم غدوت فإذا رسول الله صلى الله عليه و سلم قائم بين الركن والباب فقال يا أيها الناس انى قد كنت أذنت لكم فى الاستمتاع من النساء الا وان الله قد حرم ذلك إلى يوم القيامه فمن كان عنده منهن شيء فليخل سبيلها ولا تأخذوا مما آتيتموهن شيئا

:Ja'far b. 'Awn – 'Abd al-'Aziz b. 'Umar b. 'Abd al-'Aziz – al-Rabi' b. Sabrah – his father

We journeyed with the Messenger of Allah, peace be upon him, during the Farewell Hajj and he said, "Do mut'ah with these women"…. Then, in the morning, the Messenger of Allah, peace be upon him, stood between al-Rukn and the door and said, "O mankind! Verily, I have been allowing you to do mut'ah with women. But, surely, Allah has made that haram till the Day of al-Qiyamah. So, whoever has something of them with him, let him free her, and do not take

back anything from what you gave them (as dowries)."[1]

Shaykh Asad comments:

إسناده صحيح

Its chain is sahih[2]

Imam Ibn Hibban (d. ٣٥٤ H) has documented it too[3], and al-Albani (d. ١٤٢٠ H) says about it:

صحيح

Sahih[4]

And al-Arnauṭ agrees:

إسناده صحيح

Its chain is sahih[5]

Here, we are back again at the beginning! Our Sunni brothers consider mut'ah to be a form of fornication, and also declare that the mut'ah wife is no "wife". Rather, she is a fornicator. Alhamdulillah, fornication was made haram during the Makkan era, before our Prophet migrated to Madinah. Therefore, by Sunni logic, mut'ah was already banned before the Hijrah. But, their books tell us that the following occurred after the Hijrah:

١. The Messenger re-ban mut'ah permanently at Khaybar seven years after the Hijrah. This makes sense since he was only repeating the Qur'anic ban on fornication and adultery.

٢. However, the same Prophet "ordered" his Sahabah to indulge in mut'ah – read: to indulge in fornication – during his conquest of Makkah in ٨ H!

٣. Moreover, after three days – or on that same day – he banned mut'ah again permanently.

Then, during his Farewell Hajj in ۱۰ H, he ordered his Sahabah once more, saying: .۴ “Do mut’ah with these women”. By Sunni logic, he was only saying: “Do fornication !with these women”! Thereafter, he banned it permanently again, for the last time

If this is not mockery of Allah and His Messenger by the Ahl al-Sunnah wa al-Jama’ah, what then is it? Al-Hafiẓ Ibn Kathir (d. ۷۷۴ H), meanwhile, thinks he has an

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Abu Muhammad ‘Abd Allah b. ‘Abd al-Rahman al-Darimi, Sunan (Beirut: Dar al-Kitab -۱ al-‘Arabi; ۱st edition, ۱۴۰۷ H) [annotator: Husayn Salim Asad], vol. ۲, p. ۱۸۸, ۲۱۹۵

Ibid -۲

Abu Hatim Muhammad b. Hibban b. Ahmad b. Hibban b. Mu’adh b. Ma’bad al- -۳ Tamimi al-Darimi al-Busti, Ṣahih Ibn Hibban bi Tartib Ibn Balban (Beirut: Muasassat al-Risalah; ۲nd edition, ۱۴۱۴ H) [annotators: Muhammad Naṣir al-Din al-Albani and Shu’ayb al-Arnaut], vol. ۹, p. ۴۵۴, ۴۱۴۷

Ibid -۴

Ibid -۵

:explanation

فقد نص الشافعى على أنه لا يعلم شيئا أبيح ثم حرم ثم أبيح ثم حرم غير نكاح المتعه وما حداه على هذا رحمه الله إلا اعتماده على هذين الحديثين كما قدمناه .وقد حكى السهيلى وغيره عن بعضهم: أنه ادعى أنها أبيحت ثلاث مرات وحرمت ثلاث مرات وقال آخرون أربع مرات وهذا بعيد جدا والله أعلم.

واختلفوا أى وقت أول ما حرمت فقيل فى خيبر وقيل فى عمره القضاء وقيل فى عام الفتح وهذا يظهر وقيل فى أوطاس وهو قريب من الذى قبله وقيل فى تبوك وقيل فى حجه الوداع.

Al-Shafi'i had explicitly stated that he did not know of anything that was made halal, then made haram, then made halal and then made haram other than the marriage of mut'ah. Nothing drew him, may Allah be merciful to him, to this conclusion except his reliance upon these two hadiths, as we previously discussed. Al-Suhayli and others have also narrated from one of them that he claimed that it (mut'ah) was made halal three times and was made haram three times. The others said: four times. But, this is .very unlikely, and Allah knows best

They disagree on the exact time when it was FIRST made haram. It is said that it was at Khaybar, and it is said that it was at the 'Umrah al-Qaḍa. It is said that it was during the Year of the Conquest, and this is the most likely; and it is said that it was at Awṭas, and this is nearer to the one before it. It is

(said that it was at Tabuk, and it is said that it was at the Farewell Hajj.(١)

But, this only worsens things for the Ahl al-Sunnah. On the specific question of zina (fornication and adultery), this is also what this Makkan ayah says:

ولا تقربوا الزنا إنه كان فاحشه وساء سبيلا

(And do not approach zina. Verily, it is an indecency, and an evil way.(٢)

This verse – by the ijma' of the whole Ummah – has never been abrogated. It has been in force since before the Hijrah; and it continued unimpeded till the death of the Messenger. In other words, during all those times that the Prophet and his Sahabah were practising mut'ah, this ayah was well in authority. It is thus either of two things (i) mut'ah is a form of zina too or (ii) mut'ah is NOT a form of zina. The Sunnis maintain that temporary is fornication. So, what they are saying – in essence – is that Prophet Muhammad was contradicting his Lord repeatedly, by "allowing" or "commanding" and even "practising" what his Lord had long declared haram! Apparently, if they joined the Shi'ah in saying that mut'ah is NOT a form of zina, then some of their unintentional mockeries of Allah and His Messenger would disappear.

But, even then, they would have to show us which verse of the Qur'an abrogated mut'ah? Of course, this ayah must be proved to have been revealed after the Verse of al-Mut'ah and Surah al-Maidah, and it must be explicit in

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١- Abu al-Fida Isma'il b. Kathir al-Dimashqi, al-Bidayah wa al-Nihayah (Dar Ihya al-Turath al-'Arabi; ١st edition, ١۴٠٨ H) [annotator: 'Ali Shiri], vol. ۴, p. ٢٢٠

٢- Qur'an ١٧:٣٢

its ruling against temporary marriage. We say categorically here: no such verse exists. Meanwhile, since only an ayah can abrogate an ayah (as the Qur'an itself declares), .then the Verse of al-Mut'ah remains in force till this day, and till the end of days

This automatically leads us to another conclusion: all the reports about how mut'ah was banned permanently – only to be unbanned sometime later - are careless fabrications. They were "rushed up" to justify 'Umar's ban of that legitimate form of nikah. No wonder, they contain so many serious contradictions among themselves, even in reports by the same individuals, and all of them altogether also oppose the !Qur'an

Unsurprisingly, all these alleged repeated bans of mut'ah were completely unknown :to the generality of the Sahabah, as Imam Muslim reports

حدثنی محمد بن رافع حدثنا عبدالرزاق أخبرنا ابن جریج أخبرنی أبو الزبیر قال سمعت جابر بن عبدالله یقول کنا نستمتع بالقبضه من التمر والدقیق الأیام علی عهد رسول الله صلی الله علیه و سلم وأبی بکر حتی نهی عنه عمر فی شأن عمرو بن حریث

:Muhammad b. Rafi' – 'Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr

I heard Jabir b. 'Abd Allah saying, "We used to contract mut'ah by giving a handful of dates and flour (as the dowry) during the eras of the Messenger of Allah and Abu Bakr (UNTIL 'Umar forbade it in the case of 'Amr b. Hurayth.(١)

They continued to practise mut'ah till the death of the Prophet, and he did not warn, stop or penalize them. Abu

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Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: -١ Dar Ihya al-Turath al-'Arabi) [annotator: Muhammad Fuad 'Abd al-Baqi], vol. ٢, p. ١٠٢٢, (١۴٠۵ (١۶

Bakr too allowed them to freely go ahead with it throughout his rule. There is a usual Sunni excuse that the information concerning the ban on mut'ah did not reach these Sahabah, and that they continued it due to that! But, does that make any sense? The ban on mut'ah was supposedly announced at least three times in public; and yet, the generality of the Sahabah – including even Abu Bakr - never heard it?! Moreover, did the Sahabah not know of any of the ayahs in the Qur'an which make fornication and adultery haram? If they did, why did they continue to perform mut'ah (considering the Sunni claim that it is fornication), and why did the Messenger and Abu Bakr allow ?them

Even more interesting is the dogged refusal of Ibn 'Abbas, raḍiyallahu 'anhu, to back down on mut'ah till his death. The Ahl al-Sunnah say that Imam 'Ali allegedly informed :him that mut'ah had been banned at Khaybar

وحدثنا محمد بن عبدالله بن نمير حدثنا أبى حدثنا عبيدالله عن ابن شهاب عن الحسن وعبدالله ابنى محمد بن على عن أبيهما عن على أنه سمع ابن عباس يلين فى متعه النساء فقال مهلا يا ابن عباس فإن رسول الله صلى الله عليه و سلم نهى عنها يوم خيبر وعن لحوم الحمر الإنسيه

Muhammad b. 'Abd Allah b. Numayr – my father – 'Ubayd Allah – Ibn Shihab – al-:Hasan and 'Abd Allah, sons of Muhammad b. 'Ali – their father

Ali heard Ibn 'Abbas allowing mut'ah with women. So, he said, "Don't be'

hasty, O Ibn ‘Abbas, for the Messenger of Allah, peace be upon him, forbade it on the (Day of Khaybar as well as the flesh of domestic asses.”(١)

:Yet, long after ‘Ali’s death, he was still defending mut’ah. Imam Muslim again

وحـدثنی حرمله بن یحیی أخبرنـا ابن وهب أخبرنی یونس قال ابن شـهاب أخبرنی عروه بن الزبیر أن عبـدالله ابن الزبیر قام بمکه فقال إن ناسا أعمی الله قلوبهم کما أعمی أبصارهم یفتون بالمتعه یعرض برجل فناداه فقال إنک لجلف جاف فلعمری لقد کانت المتعه تفعـل علی عهـد إمـام المتقین (یریـد رسول الله صـلی الله علیه و سـلم) فقال له ابن الزبیر فجرب بنفسک فوالله لئن فعلتها لأرجمنک بأحجارک

:Harmalah b. Yahya – Ibn Wahb – Yunus – Ibn Shihab – ‘Urwah b. al-Zubayr

Abd Allah b. al-Zubayr stood in Makkah and said, “Allah has made blind the hearts of‘ some people as He made blind their eyesight. They give fatwas allowing mut’ah.” He was referring to a certain man. So, he (the man) called him and said, “You are an uncouth person, devoid of sense! I swear by my life, mut’ah was practised during the time of the Imam of the pious” - he meant the Messenger of Allah. So, Ibn al-Zubayr said to him, “Just do it yourself. By Allah, if you do it, I will stone you with your (stones.”(٢)

:We know the identity of that man in this further hadith of Imam Muslim

حدثنا حامد بن عمرو البکراوی حدثنا عبدالواحد (یعنی ابن زیاد) عن عاصم عن أبی نضره

p: ۶۷

Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, Ṣahih Muslim (Beirut: -١ Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. ٢, p. ١٠٢٧, (١۴٠٧ (٣١

(Ibid, vol. ٢, p. ١٠٢٣, ١۴٠۶ (٢٧ -٢

قال كنت عنـد جابر بن عبدالله فأتاه آت فقال ابن عباس وابن الزبير اختلفا فى المتعتين فقال جابر فعلناهما مع رسول الله صـلى الله عليه و سلم ثم نهانا عنهما عمر فلم نعد لهما

:Hamid b. ‘Amr al-Bakrawi – ‘Abd al-Wahid b. Ziyad – ‘Asim – Abu Naḍrah

I was with Jabir b. ‘Abd Allah, a person came and said, “Ibn ‘Abbas and Ibn al-Zubayr disagree concerning the two types of mut’ah.” So, Jabir said, “We practised both of them along with the Messenger of Allah, peace be upon him. Then, ‘Umar forbade us from them both, and we have not reverted to them.”(١)

It was Ibn ‘Abbas, and he had become blind at that time – apparently during the rebel “caliphate” of Ibn al-Zubayr in Makkah. That was towards the very end of the lifetime of Ibn ‘Abbas. Commenting on these reports and others, ‘Allamah al-Albani concludes:

وجمله القول: أن ابن عباس رضى الله عنه روى عنه فى المتعه ثلاثه أقوال:

الأول: الإباحه مطلقا.

الثانى: الإباحه عند الضروره.

والآخر: التحريم مطلقا , وهذا مما لم يثبت عنه صراحه , بخلاف القولين الأولين , فهما ثابتان عنه.

The summary is: three opinions are narrated from Ibn ‘Abbas, may Allaah be pleased with him, about mut’ah:

The one: he permitted it unconditionally.

The second: he permitted it in cases of necessity.

The last: he forbade it unconditionally, but this is from what is NOT authentically transmitted from him, unlike the first two opinions which are authentically transmitted from him.(٢)

So, basically, there is solid evidence that Ibn ‘Abbas continued to defend mut’ah even

(Ibid, vol. ۲, p. ۱۰۲۲, ۱۴۰۵ (۱۷ -۱

Muhammad Naṣir al-Din al-Albani, Irwa al-Ghalil fi Takhrij Ahadith Manar al-Sabil -۲
(Beirut: al-Maktab al-Islami; ۲nd edition, ۱۴۰۵ H), vol. ۶, p. ۳۱۹, ۱۹۰۳

in his old age, and there is none that he ever retracted his statements on it. Meanwhile, Sunnis generally excuse the pro-mut'ah positions of the generality of the Sahabah after the Prophet on an desperate argument that the information of its abrogation had not reached them. But, will they say the same about Ibn 'Abbas? In that case, was he really a stubborn heretic who dared to openly and knowingly oppose Allah and His Messenger? Was that his character? Well, with the persistent Sunni claim that Imam 'Ali informed him about the ban of mut'ah, we are afraid, there .is no other possible conclusion other than that Ibn 'Abbas was from the Ahl al-Bid'ah

Interestingly, when he defended mut'ah by stating that it was practised during the time of the Messenger, Ibn al-Zubayr – also a Sahabi – became silenced. Ibn al-Zubayr did not mention anything about its alleged "abrogation" or "ban" as a counter-argument, which is extremely baffling. No doubt, if he had known of any rejection of mut'ah by the noble Prophet, he would have instantly corrected Ibn 'Abbas on his submission, and would have saved his face. The fact that Ibn al-Zubayr was unable to bring down Ibn 'Abbas's suggestion that mut'ah was accepted throughout the .Messenger's lifetime raises a lot of question marks about all Sunni ahadith against it

This hot exchange between the two took place long after the death of 'Umar and 'Ali. Yet, neither Ibn 'Abbas nor (especially) Ibn al-Zubayr seem to be aware of

any claim that mut’ah had been banned by the Prophet of Allah! This tells us that all these anti-mut’ah reports were most probably manufactured only after the period of the confrontation between those two Sunni heavyweights.

5. The Practice Of Mut’ah

point

NOTE: This chapter is only a general, concise explanation of mut’ah, and does not substitute for expert clerical advice and guidance on it.

Mut’ah: A Tool Of Necessity

When a Shi’i Muslim intends to contract mut’ah, there are a number of questions he faces directly. What is the purpose of the intended marriage? What are its benefits? Is there any need for it? With whom should he do the mut’ah, and for how long? What are its conditions and limitations?

Generally, mut’ah is forbidden except in cases of necessity. Shaykh al-Kulayni (d. ٣٢٩ H) reports:

على بن إبراهيم، عن أبيه، عن ابن أبى عمير، عن على بن يقطين قـال: سـألت أبا الحسن موسـى عليه السـلام عن المتعه فقال: وما أنت وذاك فقد أغناك الله عنها، قلت:إنما أردت أن أعلمها، فقال: هى فى كتاب على عليه السلام، فقلت: نزيدها وتزداد؟ فقال: وهل يطيبه إلا ذاك.

‘Ali b. Ibrahim – his father – Ibn Abi ‘Umayr – ‘Ali b. Yaqṭin:

I asked Abu al-Hasan Musa, peace be upon him, concerning mut’ah, and he said, “What do you have to do with that, for Allah has already made you needless of it?” I said, “I only want to learn about it.” Then he said, “It is in the Book of ‘Ali, peace be upon him.” So, I said, “Do we increase it and is it multiplied?”

(He said, "Is there anything that pleases him except that?"(1)

:Al-Majlisi (d. 1111 H) says

حسن

(Hasan.(2)

This is quite clear and straightforward. If you are not in a state of need – with regards to mut'ah – you have nothing to do with it. So, the Shi'i asks himself if he is really in need of a temporary marriage. If he is not, he abandons the whole idea, as the .Imams, 'alaihim al-salam, want

The Suitable Mut'ah Wives

After deciding that he is genuinely in need of mut'ah, then he must decide whom to marry temporarily. He is absolutely forbidden from marrying any woman who falls in the forbidden categories(3). The Shi'i man knows this. So, he is only searching outside the forbidden categories. There are some crucial duties upon him, in his search, .however

First and foremost, he must confirm the age of any woman he wishes to marry. She :must NOT be underage, as al-Kulayni documents

على، عن أبيه، عن ابن أبى عمير، عن جميل بن دراج قال: سألت أبا عبد الله عن الرجل يتمتع من الجاريه البكر قال: لا بأس بذلک ما لم يستصغرها

:Ali – his father – Ibn Abi 'Umayr – Jamil b. Darraj'

I asked Abu 'Abd Allah about the man who does mut'ah with the virgin girl. He said, ("There is no problem with that, as long as he does not find her to be underage."(4

:Al-Majlisi says

حسن

(Hasan.(5)

:Then, he adds

قوله :) ما لم يستصغرها (أى لم يجدها صغيره غير بالغه فلا يصح العقد حينئذ

His statement: {as long as he does not find her to

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۲, ۱

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۳

۳- See Qur'an ۴:۲۳-۲۵

۴- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۳, ۴

۵- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۲

be underage}, meaning, he does not find her to be a child who has not reached the age of maturity, in which case the union would be invalid.(1)

Al-Kulayni also reports about the age of maturity, for girls, in Islam:

علی، عن أبیه، عن ابن أبی عمیر، عن رجـل، عن أبی عبـد الله علیه السـلام قـال: قلت: الجـاریه ابنه کم لا تسـتصبی؟ ابنه ست أو سبع؟ فقال: لا ابنه تسع لا تستصبی وأجمعوا کلهم علی أن ابنه تسع لا تستصبی إلا أن یکون فی عقلها ضعف وإلا فهی إذا بلغت تسعا فقد بلغت.

'Ali – his father – Ibn Abi 'Umayr – a man:

I said, "When does the girl cease to be a child? At the age of six or seven?" So, he said, "No. She ceases to be a child at the age of nine; and they all unanimously agree that a girl of nine years is no longer a child, except if there is weakness in her intelligence. Otherwise, when she reaches the age of nine, she has matured."(2)

Al-Majlisi declares:

حسن

Hasan.(3)

In reality, the hadith is mursal. However, there is a strengthening shahid for it in this hadith of Shaykh al-Ṭusi (d. ۴۶۰ H):

عنه عن ابن محبوب عن أبی أیوب عن یزیـد الکناسـی عن أبی جعفر علیه السـلام قـال: الجـاریه إذا بلغت تسع سـنین ذهب عنها الیتم وزوجت

And from him (i.e. Ahmad b. Muhammad) – Ibn Mahbub – Abu Ayub – Yazid ak-Kunasi – Abu Ja'far, peace be upon him:

When the girl reaches the age of nine, her orphanhood ceases, and she is

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۱- Ibid

۲- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۳, ۵

۳- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۲

(married.(1

:Allamah Al-Ruhani comments‘

حسن أو صحيحه

(Hasan or Sahih.(2

:Al-Kulayni too has this further shahid

عنه، عن الحسن، عن جعفر بن سماعه، عن آدم بياع اللؤلؤ، عن عبد الله بن سنان، عن أبی عبد الله علیه السلام قال: إذا بلغ الغلام ثلاث عشره سنه کتبت له الحسنه وکتبت علیه السیئه وعوقب، وإذا بلغت الجاریه تسع سنین فکذلک وذلک أنها تحیض لتسع سنین.

From him (i.e. Humayd) – al-Hasan – Ja’far b. Sama’ah – Adam – ‘Abd Allah b.Sinan – :Abu ‘Abd Allah, peace be upon him

When the boy reaches the age of thirteen, his good deeds are recorded and his evil deeds are also recorded, and he is punished (for his sins and crimes). When the girl reaches the age of nine, she becomes like that too; and that is because she (menstruates at the age of nine.”(3

:And al-Majlisi states

موثق

(Muwaththaq.(4

:Al-Ruhani too concurs

موثق

(Muwaththaq.(5

:Al-Kulayni also documents one more shahid

علی بن إبراهیم، عن أبیه، ومحمد بن یحیی، عن أحمد بن محمد جمیعا، عن ابن أبی عمیر، عن حماد، عن الحلبی عن أبی عبد الله علیه السلام قال: قال: إذا تزوج الرجل الجاریه وهی صغیره فلا یدخل بها حتی یأتی لها تسع سنین.

Ali b. Ibrahim – his father AND Muhammad b. Yahya – Ahmad b. Muhammad – Ibn Abi ‘Umayr – Hammad – al-Halabi – Abu ‘Abd Allah, peace be upon him:

When a man marries a girl while she is still immature, then he must not have sexual intercourse with her until she reaches the age of nine.(۶)

Al-Majlisi comments:

صحيح

Sahih.(۷)

Al-Ruhani too says:

صحيح

Sahih.(۸)

This hadith – which is about permanent marriages –

p: ۷۳

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۱ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۱۰, p. ۳۸, Ch. ۱, ۱۳۳ (۱۳۳)

۲ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۰, p. ۱۰۶

۳ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۷, pp. ۶۸-۶۹, ۶

۴ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۳, p. ۱۱۰

۵ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (۳rd edition, ۱۴۱۲ H), vol. ۲, p. ۱۶

۶ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi

(Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ٥, p. ٣٩٨, ٢

٧- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ١٣٨

٨- - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١٤١٤ H), vol. ٢١, p. ٨٨

nonetheless establishes a universal principle: a girl theoretically becomes a woman, capable of having sexual intercourse, at the age of nine. Therefore, the Shi'i man seeking a mut'ah marriage must himself be at least thirteen years old, while the girl must have reached the age of nine. Otherwise, the mut'ah would be unlawful.

Our Shi'i man is above thirteen, alhamdulillah; and he has his eyes on a particular Muslim woman who is above nine too. So, what must he do next? In our modern, heavily Westernized world, the age of consent has been statutorily fixed in most countries. This is why the Shi'i man must be careful here. He does not have to get himself into trouble simply because he wants to do mut'ah. Therefore, in fulfilment of the obligations of taqiyyah, he must respect the statutory age of consent in his country of residence. Usually, the man and the woman are considered legally capable of consensual intercourse starting from the age of ۱۸ (eighteen). The Shi'i man, then, must obey that, as long as he has no other trouble-free option. Taqiyyah is indeed a shield, and a blessing, to the believers.

Now, our man lives in a Western(ized) country, and he has been able to find a woman who is eighteen years old or above. In that case, he must confirm the marital status of the woman he intends to do mut'ah with. If she is married – whether in mut'ah or permanently, then she is automatically and absolutely disqualified(۱). Normally,

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۱- See Qur'an ۴:۲۴

the man should be able to easily confirm the marital status of the woman through her neighbours, friends or colleagues. In case that becomes difficult, then if he is able to confirm directly from the woman, that is even better. Whatever she says about :herself is believed to be true. Al-Kulayni says

عده من أصحابنا، عن أحمد بن محمد بن عيسى، عن الحسين بن سعيد، عن فضاله، عن ميسر قال: قلت لأبی عبد الله علیه السلام : ألقی المرأه بالفلاه التی لیس فیها أحد فأقول لها:هل لک زوج؟ فتقول: لا، فأتزوجها؟ قال: نعم هی المصدقه علی نفسها.

A number of our companions – Ahmad b. Muhammad b. ‘Isa – al-Husayn b. Sa’id – :Faḍalah – Maysar

I said to Abu ‘Abd Allah, peace be upon him, “I met a woman in the wilderness in which there was no one else. So I said to her, ‘Do you have a husband?’ She said, ‘No.’ Do I (marry her?” He said, “Yes. She is the trustworthy one concerning herself.”(۱

:Al-Majlisi says

صحیح

(Sahih(۲

After determining that the woman has no husband – whether she is single, divorced or widowed and is available for marriage – then, the Shi’i man must establish that she is also morally eligible for mut’ah. The Qur’an has forbidden certain categories of men :and women for marriage – whether permanently or temporarily

الزانی لا ینکح إلا زانیه أو مشرکه والزانیه لا ینکحها إلا زان أو مشرک وحرم ذلک علی المؤمنین

The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall

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۱ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۲, ۲

۲ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar

al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٥١

(marry her but a fornicator or an idolater: and that is made haram for the believers.(١)

Yes, it is haram for the Shi'i man to marry a fornicatress or an idolatress. As such, he must investigate the moral uprightness and tawhid of whoever he seeks to do mut'ah with. If the woman is a Muslimah, but a fornicatress, marriage with her – permanently or temporarily – is haram. Moreover, if she is morally upright but associates others with Allah in His attributes, functions, roles, or in worship of Him or du'a to Him, then mut'ah with her is still forbidden. The same goes for the Muslim woman who wants to practise temporary marriage as well. She must investigate the morality and Islamic monotheism of her proposed husband. If he fails in either, he is haram to her for .mut'ah or permanent marriage

:Al-Ṭusi documents in this regard

أحمد بن محمد بن عيسى عن محمد بن إسماعيل بن بزيع قال: سأل رجل الرضا عليه السلام وانا اسمع عن الرجل يتزوج المرأه متعه ويشترط عليها ان لا يطلب ولدها فتأتى بعد ذلك بولد فينكر الولد فشدد فى ذلك وقال يجحد؟ وكيف يجحد اعظاما لذلك؟ قال الرجل فان اتهمها قال: لا ينبغى لك ان تتزوج إلا مأمونه ان الله يقول: الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

:'Ahmad b. Muhammad b. 'Isa – Muhammad b. Isma'il b. Bazi

A man asked al-Riḍa, peace be upon him, while I was listening, about the man who marries the woman

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Qur'an ٢۴:٣ -١

in mut’ah and he imposes a condition upon her that he will not seek her child. But, she later comes with a child and he severely denies the child. So, he (al-Riḍa) said, “Does he deny? How can he deny primarily because of that?” Then, the man said, “What if he accuses her (of fornication)?” He (al-Riḍa) said, “It is not appropriate for you to marry except a faithful woman. Verily, Allah the Almighty says: {The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made haram for the believers}.(١)

Al-Majlisi states:

صحيح

Sahih.(٢)

Al-Ruhani concurs:

صحيح

Sahih.(٣)

This is equally emphasized in this noble ayah:

اليوم أحل لكم الطيبات وطعام الذين أوتوا الكتاب حل لكم وطعامكم حل لهم والمحصنات من المؤمنات والمحصنات من الذين أوتوا الكتاب من قبلكم إذا آتيتموهن أجورهن محصنين غير مسافحين ولا متخذى أخدان

Today, the good things are made halal to you; and the food of those who were given the Book is halal for you, and your food is halal for them; and also (halal to you are) the CHASTE ONES from the believing women and the chaste ones from those who were given the Book before you, when you have given them their dowries, taking (them) in marriage, not fornicating (with them), nor taking them as girlfriends.(٤)

So, mut’ah is allowed, as a general rule, only with faithful, chaste believing or Muslim men and women, who are not fornicators, adulterers or fornicatresses. Unchaste believing

١ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٧, p. ٢۶٩, (Ch. ٢۴, ٨٢ (١١۵٧

٢ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ١۴٠٧ H), vol. ١٢, p. ۶٩, ٨١

٣ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١۴١۴ H), vol. ٢٢, p. ۴٣

۴ - Qur’an ۵:۵

women are NOT halal to the Shi'i man. As such, marriage – permanent or temporary - with any unchaste woman or fornicatress is haram. Meanwhile, once a man or a woman has repented from zina, he or she no longer falls in the forbidden categories, :as al-Kulayni confirms

حميد بن زياد، عن الحسن بن محمد بن سماعه، عن أحمد بن الحسن الميثمى، عن أبان، عن حكم بن حكيم، عن أبى عبد الله عليه السلام فى قوله عز وجل: والزانيه لا ينكحها إلا زان أو مشرك قال: إنما ذلك فى الجهر ثم قال: لو أن إنسانا زنى ثم تاب تزوج حيث شاء.

Humayd b. Ziyad – al-Hasan b. Muhammad b. Sama'ah – Ahmad b. al-Hasan al-Maythami – Aban – Hakam b. Hakim – Abu 'Abd Allah, peace be upon him, concerning His Statement, the Almighty {and the fornicatress, none shall marry her but a :{fornicator or an idolater

That is only in the publicity (of the fornication)". Then, he (Abu 'Abd Allah) said, "If a" person commits zina, and then repents, they can marry wherever they wish (in the (halal categories)."(١)

:Al-Majlisi comments

موثق

(Muwaththaq.(٢)

Also, to determine the moral and religious status of the Muslim woman, obviously, the :Shi'i man must carry out thorough investigations, as al-Kulayni reports

محمد بن يحيى، عن أحمد بن محمد، عن ابن محبوب، عن أبان، عن أبى مريم، عن أبى جعفر عليه السلام أنه سئل عن المتعه فقال: إن المتعه اليوم ليس كما كانت قبل اليوم إنهن كن يومئذ يؤمن واليوم لا يؤمن فاسألوا عنهن.

Muhammad b. Yahya – Ahmad b. Muhammad – Ibn

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١ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ٥, p. ٣٥٥, ۶

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -۲ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۶۲

:Mahbub – Aban – Abu Maryam

Abu Ja’far, peace be upon him, was asked about mut’ah. So, he said, “Verily, mut’ah today is not as it used to be in the past. They (i.e. the women) used to be faithful. But, today, they are not faithful. Therefore, investigate about them (i.e. the women).(١)

:Al-Majlisi says

موثق كالصحيح

Muwaththaq ka al-Sahih(٢)

If the investigations reveal that she is unchaste or a fornicatress, then the Shi’i man must look for another woman. Interestingly, even where the man is unable to personally get solid evidence of her debauchery, but notices that people widely think of her as being promiscuous, he must forget about her in that case too. Al-Kulayni :records

على بن إبراهيم، عن محمد بن عيسى، عن يونس، عن محمد بن الفضيل قال:سألت أبا الحسن عليه السلام عن المرأه الحسناء الفاجره هل يجوز للرجل أن يتمتع منها يوما أو أكثر؟ فقال: إذا كانت مشهوره بالزنا فلا يتمتع منها ولا ينكحها.

:Ali b. Ibrahim – Muhammad b. ‘Isa – Yunus – Muhammad b. al-Fuḍayl‘

I asked Abu al-Hasan, peace be upon him, about the beautiful woman who is a prostitute: is it permissible for the man to do mut’ah with her for a day or more?” He said: “If she is famous for zina, then he must NOT do mut’ah with her and also must NOT marry her (permanently).”(٣)

:Al-Majlisi comments

موثق

Muwaththaq (Reliable)(٤)

However, it may happen that the Shi’i man is unable to determine the moral uprightness of the woman. Perhaps, her neighbours do not know much about her,

because she came into

p: ۷۹

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۱ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۳, ۱

۲ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۵

۳ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۴, ۶

۴ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۷

their community only recently. Or, the Shi'i man is unable to approach her neighbours and colleagues for one good reason or another. Or, she was once famous for zina; but, there have been rumours of her total repentance. What does the Shi'i man do in :such a situation? Al-Kulayni has the answer

على بن إبراهيم، عن أبيه، عن ابن أبى عمير رفعه، عن عبـد الله بن أبى يعفور، عن أبى عبد الله عليه السـلام قال: سألته عن المرأه ولا أدرى ما حالها أيتزوجها الرجل متعه؟ قال: يتعرض لها فإن أجابته إلى الفجور فلا يفعل

:Ali b. Ibrahim – his father – Ibn Abi 'Umayr – 'Abd Allah b. Abi Ya'fur'

I asked Abu 'Abd Allah, peace be upon him, about the woman whose state I do not know, does the man marry her in mut'ah? He said, "He presents to her. If she (responds to him in favour of unlawful sex, then, he must NOT."(١

:Al-Majlisi says

حسن

(Hasan.(٢

This is a last resort measure – where no other one is possible - to identify the moral status of the woman. The man proposes a boyfriend-girlfriend relationship, a cohabitation or a concubinage (all of which are forms of zina) with her. If she accepts, then she is a fornicatress. The Shi'i man must NOT contract mut'ah with her. However, if she rejects pre-marital and extra-marital sex, then she is clean for .marriage

:Shaykh Ibn Taymiyyah (d. ٧٢٨ H) presents the Sunni view on this, as well

وكذلك المرأه التى زنا بها الرجل فإنه لا يتزوج بها إلا بعد التوبه

Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi -١ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ٥, p. ٤٥٤, ٤

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -٢

al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٣٧

فی اصح القولین کما دل علیه الکتاب والسنه والآثار لکن إذا أراد أن یمتحنها هل هی صحیحه التوبه أم لا فقال عبدالله ابن عمر وهو المنصوص عن أحمد أنه یراودها عن نفسها فإن أجابته لم تصح توبتها وإن لم تجبه فقد تابت

The woman who committed fornication with the man is like that too. He cannot marry her except after repentance, according to the more correct of the two opinions, as established by the Book, the Sunnah and the athar. However, if he intends to test her, whether it is a genuine repentance or not, then 'Abd Allah b. 'Umar said – and this is also what is reported from Ahmad (b. Hanbal) – that he should propose fornication to her. If she responds positively to him, her repentance is not genuine. But, if she does not respond positively to him, then she has (genuinely) repented.(١)

Al-Kulayni continues further with the Shi'i position:

محمد بن یحیی، عن محمد بن أحمد، عن أحمد بن الحسن، عن عمرو بن سعید، عن مصدق بن صدقه، عن عمار بن موسی، عن أبی عبد الله علیه السلام قال: سألته عن الرجل یحل له أن یتزوج امرأه کان یفجر بها؟ فقال: إن آنس منها رشدا فنعم وإلا فلیراودنها علی الحرام فإن تابعته فهی علیه حرام وإن أبت فلیتزوجها.

Muhammad b. Yahya – Muhammad b. Ahmad – Ahmad b. al-Hasan – 'Amr b. Sa'id – Musaddiq b. Sadaqah – 'Ammar b. Musa:

I asked Abu 'Abd Allah, peace be upon him, about the man, "Can he marry a woman with whom he

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١- Abu al-'Abbas Ahmad b. 'Abd al-Halim b. Taymiyyah al-Harrani, Majmu' al-Fatawa, vol. ١٥, p. ٣٢٨

committed fornication?" So, he said, "If he sees right guidance in her, then yes. If not, he should propose the haram to her. If she follows him, then she is haram to him. But, if she refuses, then he should marry her."(١)

Al-Majlisi comments:

موثق

Muwaththaq.(٢)

Al-Ruhani concurs:

موثق

Muwaththaq.(٣)

This one establishes a powerful principle in mut'ah, as well. If a girl is willing to perform zina with the Shi'i man – such as casual sex, boy-friend-girlfriend relationship, cohabitation and concubinage – then, she is haram to him for marriage – permanent or temporary. It is also a sign that she is one of those who have not repented from fornication. Marriage to a woman is halal only if she is chaste or after her genuine repentance.

So, the Muslim woman must be (a) unmarried and available for marriage, (b) chaste and (c) not famous for zina among the people. With these three conditions fulfilled, the stage is set for a valid mut'ah.

Meanwhile, something must be quickly mentioned here. There is a group among Muslims who are known as the Nawasib. These are people who openly express or manifest violence, ill-will, hatred, mockery or insult against any of the Twelve Imams or Sayyidah Faṭimah, 'alaihim al-salam. The Sunnah has forbidden nikah to such people too, in addition to fornicators and idolaters. Al-Kulayni, for instance, documents:

محمد بن يحيى، عن أحمد بن محمد، عن ابن محبوب، عن جميل بن صالح، عن فضيل ابن يسار، عن أبي عبد الله عليه السلام قال: لا يتزوج المؤمن الناصبه المعروفه بذلك.

Muhammad b. Yahya

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, pp. ۳۵۵-۳۵۶, ۱

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۶۲

۳- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۳۱۴

Ahmad b. Muhammad – Ibn Mahbub – Jamil b. Salih – Fuḍayl b. Yasar – Abu 'Abd Allah, peace be upon him:

The believer must not marry the Nasibi woman who is well-known with that.(1)

Al-Majlisi states:

صحيح

Sahih.(2)

Al-Ruhani agrees:

صحيح

Sahih.(3)

Al-Kulayni also says:

محمد بن يحيى، عن أحمد بن محمد، عن عبد الرحمن بن أبى نجران، عن عبد الله بن سنان قال: سألت أبا عبد الله عليه السلام عن الناصب الذى قد عرف نصبه وعداوته هل نزوجه المؤمنه وهو قادر على رده وهو لا يعلم برده؟ قال: لا يزوج المؤمن الناصبه ولا يتزوج الناصب المؤمنه ولا يتزوج المستضعف مؤمنه.

Muhammad b. Yahya – Ahmad b. Muhammad – 'Abd al-Rahman b. Abi Najran – 'Abd Allah b. Sinan:

I asked Abu 'Abd Allah, peace be upon him, about the Nasibi man, whose Nasibism and enmity (against any of the Twelve Imams or Sayyidah Faṭimah) is well-known, "Can we marry a believing woman to him, while he is capable of rejecting it but does not know of its rejection?" He said, "The believing man cannot marry the Nasibi woman, and the Nasibi man cannot marry a believing woman, and the mustaḍ'af man cannot marry the believing woman."(4)

Al-Majlisi states:

صحيح

(Sahih.(٥

:And al-Ruhani concurs

صحيح

(Sahih.(۶

As such, the Shi'i man, and the Shi'i woman, must confirm that their prospective mut'ah partners are not from the Nawasib. Even if such people are absolutely chaste, .nikah to them is haram nonetheless

The other people similarly disqualified are the Khawarij and the Murjiah, according to :this hadith of al-Kulayni

أبو على الأشعرى، عن محمد بن عبد الجبار، عن صفوان بن

Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi - ١ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ٣۴٨, ٣

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar - ٢ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ۵١

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- - ٣ Kitab; ٣rd edition, ١۴١۴ H), vol. ٢١, p. ۴٧۶

Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi - ۴ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ٣۴٩, ٨

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar - ۵ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ۵١

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- - ۶ Kitab; ٣rd edition, ١۴١۴ H), vol. ٢١, p. ۴٧۶

يحيى، عن عبد الله بن مسكان، عن يحيى الحلبى، عن عبد الحميد الطائى، عن زراره بن أعين قال: قلت لأبى عبد الله عليه السلام: أتزوج بمرجئه أو حروريه؟ قال: لا، عليك بالبله من النساء

Abu 'Ali al-Ash'ari – Muhammad b. 'Abd al-Jabbar – Safwan b. Yahya – 'Abd Allah b. Miskan – Yahya b. al-Halabi – 'Abd al-Hamid al-Ṭai – Zurarah b. A'yan:

I said to Abu 'Abd Allah, peace be upon him, "Can I marry a Murji or Haruri (i.e. Khariji) woman?" He said, "No. You should marry the innocent ones among the women."(1)

Al-Majlisi comments:

صحيح

Sahih.(2)

Shaykh Hadi al-Najafi too says:

الروايه صحيحه الإسناد

The report has a sahih chain(3)

The Nawasib in our times include those who mock our Twelfth Imam, 'alaihi al-salam, calling him "the dajjal" or a coward. Others are those who label Imam al-Husayn, 'alaihi al-salam, "a rebel" for rising against the illegitimate khilafah of Yazid, and those who attribute ignorance to any of the Twelve Imams. Also, those who routinely rush to reject authentic Sunni ahadith, which are in favour of the Twelve Imams or any of them, without any genuine excuse, are among the Nasibis as well. Nothing spurs them into doing that except their Nasibism. As for the Khawarij, they include everyone who identifies the Shi'is generally as kuffar, and everyone kills Shi'is on account of their madhhab, and everyone is pleased with both misdeeds. The Murjiah, on their part, include anyone who believes that whatsoever atrocities a Sahabi is perfectly proved, through even the Sunni books, to have

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١ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi

(Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۳۴۸, ۲

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۵۰

۳- Hadi al-Najafi, Mawsu'at Ahadith Ahl al-Bayt (Beirut: Dar Ihya al-Turath al-'Arabi; ۱st edition, ۱۴۲۳ H), vol. ۲, p. ۸۷, ۱۳۵۳

committed, he was nonetheless a saint and will be in Jannah. Marriage – temporary or permanent – is forbidden with these people and others like them, no matter their level .of chastity

Mut'ah With Christian And Jewish Women

The above, of course, is the general rule. However, what happens when the Shi'i man in need of mut'ah is unable to find a suitable Muslim spouse? Well, the Book of Allah :has made certain concessions in this regard

اليوم أحـل لكم الطيبـات وطعـام الـذين أوتوا الكتـاب حل لكم وطعامكم حل لهم والمحصـنات من المؤمنات والمحصـنات من الذين أوتوا الكتاب من قبلكم إذا آتيتموهن أجورهن محصنين غير مسافحين ولا متخذى أخدان

Today, the good things are made halal to you; and the food of those who were given the Book is halal for you, and your food is halal for them; and also (halal to you are) the chaste ones from the believing women and the chaste ones from those who were given the Book before you, when you have given them their dowries, taking (them) in (marriage, not fornicating (with them), nor taking them as girlfriends.(۱)

This verse is in the last revealed Surah of the Qur'an. As such, it is the last law of Allah on the issue of marriage with non-Muslim women, and therefore effectively modifies the previous rulings. So, while mut'ah with non-Muslims is ordinarily haram, our Lord eventually allowed us to marry those of them who follow a religion that once adhered to a scripture from Him. These are primarily Jews and Christians today. Therefore, the

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Qur'an ۵:۵ -۱

Shi’i man is allowed to wed a Jewess or a Christian woman in mut’ah, as long as the :following conditions are fulfilled

;a) she is unmarried and available for marriage)

;b) she is chaste)

;c) the purpose of the union is marriage and not fornication)

d) she must not be taken as a girlfriend; and)

.e) she must be paid her dowry)

However, a Muslim woman is absolutely forbidden from marrying absolutely any non-.(Muslim man – whether temporarily or permanently(١

:Allamah al-Hurr al-‘Amili (d. ١١٠۴ H) also records this hadith for the Shi’i man‘

محمد بن الحسن بإسناده عن أحمد بن محمد بن عيسى، عن إسماعيل بن سعد الأشعرى قال: سألته عن الرجل يتمتع من اليهوديه والنصرانيه قال: لا أرى بذلك بأسا، قال: قلت: فالمجوسيه؟ قال: أما المجوسيه فلا.

Muhammad b. al-Hasan with his isnad from Ahmad b. Muhammad b. ‘Isa – Isma’il b. :Sa’d al-Ash’ari

I asked him (i.e. the Imam) about the man who does mut’ah with a Jewess or a Christian woman. He said, “I see no problem with that.” I said, “What about a (Zoroastrian woman?” He said, “As for a Zoroastrian woman, then no.”(٢

:Ayatullah Sadiq al-Ruhani comments about the report

موثق

(Muwaththaq (Reliable)(٣

:The hadith can indeed be found in al-Tahdhib of al-Ṭusi

وعنه عن إسماعيل بن سعد الأشعرى قال: سألته عن الرجل يتمتع من اليهوديه والنصرانيه قال: لا أرى بذلك بأسا قال: قلت بالمجوسيه؟ قال: واما المجوسيه فلا.

:And from him from Isma'il b. Sa'd al-Ash'ari

I asked him (i.e. the Imam) about the man who does mut'ah with a Jewess or a Christian woman. He said, "I see no

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۱- Qur'an ۲:۲۲۱

۲- Muhammad b. al-Hasan al-Hurr al-'Amili, Tafṣil Wasail al-Shi'ah ila Tahṣil Masail al-Shari'ah (Qum: Muasassat Al al-Bayt 'Alaihim al-Salam li Ihya al-Turath; ۲nd edition, ۱۴۱۴ H), vol. ۲۱, p. ۳۷, Ch. ۱۳, ۱ (۲۶۴۶۵)

۳- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۴۳۹

problem with that.” I said, “What about a Zoroastrian woman?” He said, “As for a Zoroastrian woman, then no.”(١)

Al-Majlisi states:

صحيح

Sahih.(٢)

Meanwhile, if the Shi’i man is able to find a chaste Jewess or a Christian woman who agrees to do mut’ah with him, there are still some other conditions which she must consent to. Al-Ṭusi reports:

وروى محمـد بن يعقوب عن محمـد بن يحيى عن أحمـد بن محمـد عن الحسن بن محبوب عن معـاويه بن وهب وغيره عن أبى عبد الله عليه السـلام فى الرجل المؤمن يتزوج باليهوديه والنصـرانيه قال: إذا أصاب المسلمه فما يصنع باليهوديه والنصرانيه، فقلت له: يكـون له فيهـا الهوى فقـال: ان فعـل فليمنعهـا من شـرب الخمر واكـل لحم الخنزير، واعلم أن عليه فى دينه فى تزويجه إيـاها غضاضه.

Muhammad b. Ya’qub – Muhammad b. Yahya – Ahmad b. Muhammad – al-Hasan b. Mahbub – Mu’awiyah b. Wahb and others – Abu ‘Abd Allah, peace be upon him, who said concerning a believing man who seeks to marry a Jewess or a Christian woman:

“If he finds a Muslim woman, then what is he doing with the Jewess or Christian woman?”

So, I (Mu’awiyah) said to him, “He loves her.”

Then, he said, “If he does, then he must forbid her from drinking alcohol and from eating pork. And know that in his marriage to her, there is a blemish upon him in his religion.”(٣)

Al-Majlisi declares:

صحيح

Sahih.(۴)

:And al-Ruhani concurs

صحيح

(Sahih[۵])

Apparently, mut’ah with a Jewish or Christian woman is highly discouraged where a Muslim woman is available, although not forbidden. Moreover, such a marriage constitutes a

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۱ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۶, (Ch. ۲۴, ۳۰ (۱۱۰۵

۲ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۴۲, ۳۰

۳ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۹۸, (Ch. ۲۶, ۶ (۱۲۴۸

۴ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۱۱۷, ۶

۵ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۴۳۸

.blemish on the religion of the man who performs it

In any case, before a temporary marriage can proceed with a Jewess or Christian :woman, she must

;i) be unmarried and available for marriage)

;ii) be chaste, and not a fornicatress)

iii) agree to stop drinking alcohol or eating pork throughout the duration of the) .marriage

If she agrees, then the Shi'i man may contract the mut'ah with her. Otherwise, he .must avoid it altogether

Let us say that the Shi'i man finds a willing, chaste, qualified Muslim woman, or a chaste Jewess or Christian woman who agrees to avoid alcohol and pork during the ?marriage. Then, what next

The Case Of The Virgin Woman

In the case of a "virgin" woman, there are still further steps to take. Note that a "virgin", in principle, is any woman who has never married. It does not matter whether she still has her hymen undamaged or not. As long as she has never married, she is technically considered a "virgin" by the Shari'ah. To "deflower" her is, then, to have penetrative sex with her, whether her hymen is still intact or had been broken(۱). :Ayatullah al-Ruhani states

وعن الشيخ فی کتاب الفروع والحلی والمحقق والمصنف فی جمله من کتبه وأکثر المتأخرین: إن المراد بالبکر غیر المحصن

And from Shaykh in Kitab al-Furu', and al-Hilli, al-Muhaqqiq and the author in part of his books, and the majority of the later scholars: what is meant by the "virgin" is the (one who has never married.(۲

First and foremost, it is makruh (disliked) to do mut'ah with a virgin, as al-Kulayni

۱ - The hymen can be broken on account of consensual sex, masturbation, rape, disease, accident, injury, medical examination, physical exercise, cycling, the use of a tampon during menstruation, and so on. By contrast, there are women whose hymen still remains intact even after having had penetrative sex.

۲ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۵, pp. ۴۲۰-۴۲۱

:documents

على بن إبراهيم، عن أبيه، عن ابن أبى عمير، عن حفص بن البخترى، عن أبى عبـد الله عليه السـلام قـال: فى الرجـل يتزوج البكر متعه، قال: يكره للعيب على أهلها.

:Ali b. Ibrahim – his father – Ibn Abi ‘Umayr – Hafs b. al-Bakhtari‘

Abu ‘Abd Allah, peace be upon him, said concerning the man who marries the virgin in mut’ah: “It is makruh due to the blemish upon her family.”[١]

:Al-Majlisi comments

حسن

Hasan.[٢]

:Then, he adds

ويدل على كراهه التمتع بالبكر مطلقا

And it proves that mut’ah with a virgin is makruh in all situations.[٣]

However, in our view – based upon the apparent text of the hadith – the temporary marriage with the virgin is disliked only where it will constitute a blemish on her family. Otherwise, it is encouraged. This situation can occur where the virgin woman and her family reside within a predominantly Sunni community, where ignorance about mut’ah is severe. The Ahl al-Sunnah generally equate it with fornication, in denial of the Qur’an and their own sahih ahadith. Nonetheless, even in such a circumstance, mut’ah with the virgin woman is not haram (prohibited). Therefore, the Shi’i man may .still go ahead with it anyway, if the woman and her family agree

:Al-Ṭusi too has the hadith through another ṭariq

محمـد بن أحمد بن يحيى عن يعقوب بن يزيد عن محمد ابن أبى عمير عن حفص بن البخترى عن أبى عبد الله عليه السـلام فى الرجل يتزوج البكر متعه قال: يكره للعيب على أهلها.

Muhammad b. Ahmad b. Yahya – Ya’qub b. Yazid – Muhammad b. Abi

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۱ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۲, ۱

۲ - Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۱

۳ - Ibid

:Umayr – Hafs b. al-Bakhtari‘

Abu ‘Abd Allah, peace be upon him, said concerning the man who marries the virgin in (mut’ah: “It is makruh due to the blemish upon her family.”(١

:Al-Majlisi says

صحيح

(Sahih.(٢

So, what if our man lives in a Shi’i society, where mut’ah is well-respected? Well, even in such a case or in any other, he is still subject to further restrictions, as long as his :proposed temporary spouse is a virgin. Al-Kulayni records

محمد بن يحيى، عن أحمد وعبد الله ابنى محمد بن عيسى، عن على بن الحكم، عن زياد بن أبى الحلال قال: سمعت أبا عبد الله عليه السلام يقول: لا بأس بأن يتمتع بالبكر ما لم يفض إليها مخافه كراهيه العيب على أهلها.

Muhammad b. Yahya – Ahmad and ‘Abd Allah, sons of Muhammad b. ‘Isa – ‘Ali b. al-:Hakam – Ziyad b. Abi al-Hilal

I heard Abu ‘Abd Allah, peace be upon him, saying: “There is no problem in doing mut’ah with the virgin as long as he does not have intercourse with her, for fear of the (disgust of the blemish upon her family.”(٣

:Al-Majlisi declares

صحيح

(Sahih.(۴

Obviously, if sex is one of the aims of the Shi’i man in seeking a mut’ah, he has to .forgo the virgin women

:But, there is a quick issue here, on account of this hadith of al-Kulayni

على بن إبراهيم، عن أبيه، عن ابن أبى عمير، عن حماد، عن الحلبى، عن أبى عبد الله عليه السلام فى رجل دخل بامرأه قال: إذا

التقى الختانان وجب المهر والعده.

Ali b. Ibrahim – his father – Ibn Abi‘

p: ٩٠

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١ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٧, p. ٢٥٥, (Ch. ٢٤, ٢٧ (١١٠٢

٢ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ١۴٠٧ H), vol. ١٢, p. ۴١, ٢٧

٣ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶٢, ٢

۴ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٥١

:Umayr – Hammad – al-Halabi‘

Abu ‘Abd Allah, peace be upon him, said about a man who has sexual intercourse with a woman: “When the two circumcised parts meet, the dowry and the ‘iddah become (compulsory.”(١)

:Al-Majlisi says

حسن

(Hasan.(٢)

This hadith is explicit. The payment of the dowry becomes “obligatory” only after the mut’ah couple have had intercourse. Before that, it is only voluntary. Does this then mean that the virgin girl receives no dowry – or that the man is not under any obligation to give her – since there is no sex in her mut’ah? Well, the above hadith apparently refers to a marriage – permanent or temporary – where sex is not explicitly ruled out. Therefore, where its exclusion is agreed between the two mut’ah parties as part of their union, and it does not take place, then neither the dowry nor the ‘iddah period is obligatory. However, if a Shi’i man commits to pay the dowry to a virgin without having intercourse with her, then he must fulfil his commitment. Al-:Kulayni reports

عده من أصحابنا، عن سهل بن زياد، وأحمد بن محمد جميعا، عن ابن محبوب، عن عبد الله بن سنان، عن أبى عبد الله عليه السلام قال: سمعته يقول: من اشترط شرطا مخالفا لكتاب الله فلا يجوز له ولا يجوز على الذى اشترط عليه والمسلمون عند شروطهم فيما وافق كتاب الله عزو جل.

A number of our companions – Sahl b. Ziyad AND Ahmad b. Muhammad – Ibn Mahbub – ‘Abd Allah b. Sinan – Abu ‘Abd Allah, peace be upon

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١- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۶, p. ١٠٩, ١

٢- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar

al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢١, p. ١٨٥

:him

Whosoever makes a commitment that is contrary to the Book of Allah the Almighty, then it is not permissible for him, and it is not permissible for the beneficiary of the commitment. The Muslims are by their commitments in whatever agrees with the (Book of Allah the Almighty.(١

:Al-Majlisi submits

صحيح

(Sahih.(٢

:Al-Ruhani also concurs

صحيح

(Sahih.(٣

:Al-Ṭusi also documents

عنه عن الحسن بن موسى الخشاب عن غياث بن كلوب عن إسحاق بن عمار عن جعفر عن أبيه عليه السلام ان على بن أبى طالب عليه السلام كان يقول: من شرط لامرأته شرطا فليف لها به، فان المسلمين عند شروطهم إلا شرط حرم حلالا أو أحل حراما.

From him (al-Saffar) – al-Hasan b. Musa al-Khashshab – Ghiyath b. Kalub – Ishaq b. :'Ammar – Ja'far – his father, peace be upon him

Ali b. Abi Ṭalib, peace be upon him, used to say: "Whosoever makes a commitment to' his wife, he must fulfil it to her, for the Muslims are by their commitments except a (commitment that prohibits an halal or permits an haram."(۴

:Al-Ruhani comments

موثق

(Muwaththaq.(۵

Therefore, if the mut'ah husband makes a commitment to the virgin to give her the (full) dowry despite the absence of intercourse, he must fulfil it. In fact, he would be .wrong if he pegged its payment to sexual relations with her

Let us say: our man does not want sex in his temporary marriage. He only seeks companionship. So, he is qualified to go into mut'ah with a willing virgin woman. Moreover, he lives in a society where it is not viewed as a blemish

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Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi -۱ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۱۶۹, ۱

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -۲ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۱۹, p. ۱۶۵

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- -۳ Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۱۹۰

Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al- -۴ Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۴۶۷, (Ch. ۴۱, ۸۰ (۱۸۷۰

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- -۵ Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۱۹۰

on the her family. Therefore, the stage is well set for them. Then, what else does he do?

He must enquire about her parents. If she has a father, then the Shi'i man must approach him for consent. Al-Kulayni documents:

محمـد بن يحيى عن أحمـد بن محمد، عن على بن الحكم، عن علاء بن رزين، عن ابن أبى يعفور، عن أبى عبد الله عليه السـلام قال: لا تزوج ذوات الآباء من الأبكار إلا بإذن آبائهن.

Muhammad b. Yahya – Ahmad b. Muhammad – 'Ali b. al-Hakam – 'Ala b. Zarin – Ibn Abi Ya'fur – Abu 'Abd Allah, peace be upon him, said:

The virgins who have fathers cannot be married except with the permission of their fathers.(١)

Al-Majlisi says:

صحيح

Sahih(٢)

Then, he concludes:

ويدل على عدم جواز تزويج البكر مطلقا بدون إذن الأب.

And it proves the impermissibility, in all situations, of marriage to the virgin without the permission of the father.(٣)

Al-Ruhani declares as well about the hadith:

صحيح

Sahih(٤)

So, whether it is for permanent marriage or mut'ah, the consent of the virgin woman's father is obligatory. Al-Ṭusi records to this effect too:

فاما رواه أحمد بن محمد عن محمد بن إسماعيل عن أبى الحسن ظريف عن ابان عن أبى مريم عن أبى عبد الله عليه السلام قال:

العذراء التى لها أب لا تتزوج متعه إلا باذن أبيها.

Ahmad b. Muhammad – Muhammad b. Isma’il – Abu al-Hasan Zarif – Aban – Abu Maryam – Abu ‘Abd Allah, peace be upon him:

The virgin who has a father cannot be married in mut’ah except with the permission of her father.(5)

Al-Majlisi comments:

موثق كالصحيح

Muwaththaq ka

p: 93

1- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. 5, p. 393, 1

2- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. 20, p. 129

3- Ibid

4- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; 3rd edition, 1414 H), vol. 21, p. 154

5- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. 7, p. 254-255, Ch. 24, 24 (1099)

(al-Sahih)[1]

:Al-Ruhani also states

صحيح

(Sahih)[2]

Meanwhile, there is a crucial point which al-Majlisi mentions here, that must be taken :note of

ومنع جماعه من الأصحاب عن التمتع بالبكر مطلقا إلا بإذن أبيها والجد هنا كالأب.

A group of the companions unconditionally forbade mut'ah with the virgin except with (the permission of her father; and the grandfather here is like the father.)[3]

Therefore, where the father is no more, but the paternal grandfather is still alive, his .permission is obligatory too

The Terms Of The Contract

Our Shi'i man is lucky. The father of the virgin woman is alive, and he gives his permission for the mut'ah. Alternatively, the father is dead, but the grandfather, who is alive, has allowed it. Or, neither the father nor the grandfather is alive. So, the man needs no-one's permission. Or, the woman is not a virgin, and only her consent matters. In any case, our Shi'i man now has the full go-ahead to contract the .temporary marriage with his prospective wife

As a result, they both want to set the terms of their mut'ah. First, they must agree on :the dowry and the exact length of their union, as al-Kulayni reports

عده من أصحابنا، عن سهل بن زياد، ومحمد بن يحيى، عن أحمد بن محمد جميعا، عن ابن محبوب عن جميل بن صالح، عن زراره، عن أبى عبد الله عليه السلام قال: لا تكون متعه إلا بأمرين أجل مسمى وأجر مسمى.

A number of our companions – Sahl b. Ziyad AND Muhammad b. Yahya – Ahmad b. Muhammad – Ibn Mahbub – Jamil b. Salih – Zurarah – Abu

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۱- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۹, ۲۴

۲- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۱۵۵

۳- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۱

‘Abd Allah, peace be upon him, who said:

“Mut’ah does not exist except through two things: a specified term and a specified dowry.”(١)

‘Allamah al-Majlisi says:

صحيح

Sahih(٢)

Then, he adds:

ويدل على اشتراط المهر وتعيين المده فى المنقطع كما هو المذهب.

It proves that the dowry must be given and that the term must be specified, in temporary marriage, which is the standard opinion.(٣)

Al-Ṭusi also records:

أحمد بن محمد بن عيسى عن على بن الحكم عن ابان عن إسماعيل بن الفضل الهاشمى قال: سألت أبا عبد الله عليه السلام عن المتعه فقال: مهر معلوم إلى اجل معلوم.

Ahmad b. Muhammad b. ‘Isa – ‘Ali b. al-Hakam – Aban – Isma’il b. al-Faḍl al-Hashimi:

I asked Abu ‘Abd Allah, peace be upon him, about mut’ah. So, he said, “A specified dowry for a specified period.”(٤)

Al-Majlisi declares:

موثق كالصحيح

Muwaththaq ka al-Sahih(٥)

The dowry, for both permanent(۶) and temporary(٧) marriages, is sometimes called a “wage” in the Qur’an and Sunnah.

Al-Kulayni also records about the exact format of the mut’ah contract:

محمد بن یحیی، عن محمد بن الحسین، وعده من أصحابنا، عن أحمد بن محمد، عن عثمان بن عیسی، عن سماعه، عن أبی بصیر قال: لابد من أن تقول فی هذه الشروط: أتزوجک متعه کذا وکذا یوما بکذا وکذا درهما نکاحا غیر سفاح علی کتاب الله عز وجل وسنه نبیه صلی الله علیه وآله وعلی أن لا ترثینی ولا أرثک وعلی أن تعتدی خمسه وأربعین یوما وقال: بعضهم حیضه.

Muhammad b. Yahya – Muhammad b. al-Husayn AND a number of our companions – Ahmad b. Muhammad – 'Uthman b. 'Isa – Sama'ah – Abu Basir:

You must say

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۵, ۱

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۸

۳- Ibid

۴- Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, pp. ۲۶۲-۲۶۳, Ch. ۲۴, ۶۰ (۱۱۳۵)

۵- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۴, ۵۹

۶- See Qur'an ۴:۲۵, ۵:۵, ۳۳:۵۰, and ۶۰:۱۰

۷- See Qur'an ۴:۲۴

in these terms: “I marry you in mut’ah for such-and-such days with such-and-such amount, in marriage and NOT for fornication or adultery, upon the Book of Allah the Almighty and the Sunnah of His Prophet, peace be upon him and his family; and upon the condition that you shall not inherit me and I shall not inherit you; and upon the condition that you do ‘iddah for forty-five days” and some of them said, “a menstruation.”(١)

Al-Majlisi comments:

موثق

Muwaththaq.(٢)

Al-Kulayni again reports:

علی بن إبراهیم، عن أبیه، عن ابن أبی نصر، عن ثعلبه قال: تقول: أتزوجک متعه علی کتاب الله وسنه نبیه صلی الله علیه وآله نکاحا غیر سفاح وعلی أن لا ترثینی ولا أرثک کذا وکذا یوما بکذا وکذا درهما وعلی أن علیک العده.

‘Ali b. Ibrahim – his father – Ibn Abi Nasr – Tha’labah:

You should say: “I marry you in mut’ah upon the Book of Allah and the Sunnah of His Prophet, peace be upon him and his family, in marriage and not for fornication or adultery; and upon the condition that you shall not inherit me and I shall not inherit you; for such-and-such days and for such-and-such amount; and upon the condition that you must observe the ‘iddah.”(٣)

Al-Majlisi comments:

حسن موقوف

Hasan Mawquf.(۴)

Both hadiths are mawquf. However, they do inform us about how the companions of our Imams understood and practised mut’ah. Also, the fact that these two companions taught the same formula – almost word-for-word - to others suggests that they did not invent it. Rather, they must have learnt it

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۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۵, ۲

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۸

۳- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۵, ۴

۴- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۹

from the Ahl al-Bayt. This supposition is strengthened by the fact that both companions were teaching it as part of the religion. They, being righteous traditionists, would never have done that except if they had learnt the sighah from our Imams.

We understand from the two reports that:

a) the exact number of days for the mut’ah must be explicitly spelt out before both parties agree to it;

b) the exact amount of the dowry must equally be mutually agreed upon and explicitly stated;

c) the fact that the marriage is being done in compliance with the Qur’an and Sunnah must also be explicitly declared;

d) the fact that the intention of the mut’ah is marriage and not fornication or adultery must be stated explicitly as well;

e) the condition that both parties shall not inherit each other may be explicitly declared, depending on their intention, as we shall soon explain; and

f) the condition that the woman must observe the required ‘iddah period for their union must be explicitly stated.

As for the dowry, it can be any amount, as long as both parties are satisfied with it. Al-Ṭusi documents:

الحسين بن سعيد عن النضر عن عاصم بن حميد عن محمد مسلم قال: سألت أبا عبد الله عليه السلام كم المهر - يعنى فى المتعه -؟ فقال: ما تراضيا عليه إلى ما شاء من الأجل

Al-Husayn b. Sa’id – al-Naḍr – ‘Asim b. Humayd – Muhammad b. Muslim:

I asked Abu ‘Abd Allah, peace be upon him, “How much is the dowry, that is in mut’ah?” So, he said, “Whatsoever

(they both mutually agree upon, up to whatsoever length of time he wishes.”(1)

:Al-Majlisi proclaims

صحيح

(Sahih.(2)

:Al-Ruhani also says

حسن

(Hasan.(3)

Apparently, there is no minimum or maximum amount for the dowry. In the same manner, there is no minimum or maximum time length for the mut’ah.

On The Inheritance Rights Of The Spouses

With regards to the inheritance of the mut’ah wife specifically, it occurs where both parties mutually stipulate it as a condition of their nikah. Al-Kulayni documents:

على بن إبراهيم، عن أبيه، عن أحمد بن محمد بن أبى نصـر، عن أبى الحسن الرضا عليه السـلام قال :تزويج المتعه نكاح بميراث ونكاح بغير ميراث فإن اشترطت كان وإن لم تشترط لم يكن.

Ali b. Ibrahim – his father – Ahmad b. Muhammad b. Abi Nasr – Abu al-Hasan al-Riḍa,‘ peace be upon him:

The marriage of mut’ah is marriage with inheritance and marriage without inheritance. If it is stipulated as a condition, then it occurs. But, if it is not stipulated as a condition, it does not occur.”(4)

:Al-Majlisi says

حسن

(Hasan.(5)

:Al-Ruhani also states

صحيح

(Sahih.(۶

:This is also the fatwa of Shaykh al-Ṭusi

واما الميراث فإنه اشرط انها ترث ورثت وان لم يشترط فليس لها ولا له ميراث وليس يحتاج إلى أن يشترط انها لا ترث لان من شروط المتعه اللازمه ان لا يكون بينهما توارث

As for inheritance, it is to be stipulated as a condition that she shall inherit and be inherited. If it is not stipulated as a condition, then there is no inheritance for her or for him. There is no need to stipulate that she shall not inherit because one of the default conditions of mut'ah is

p: ۹۸

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۱ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۴, (Ch. ۲۴, ۶۶ (۱۱۴۱

۲ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۸, ۶۵

۳ - - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۳۶

۴ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۵, ۲

۵- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۵

۶ - - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, pp. ۴۸-۴۹

(that there is no inheritance between both of them.(1

:He too then documents this shahid

الحسين بن سعيد عن النضر عن عاصم بن حميد عن عن محمد مسلم قال: سألت أبا عبد الله عليه السلام كم المهر - يعنى فى المتعه -؟ فقال: ما تراضيا عليه إلى ما شاء من الأجل، قلت: أرأيت ان حملت فقال: هو ولده فان أراد ان يستقبل أمرا جديدا فعل وليس عليها العده منه وعليها من غيره خمسه وأربعون ليله وان اشترطت الميراث فهما على شرطهما.

:Al-Husayn b. Sa'id – al-Naḍr – 'Asim b. Humayd – Muhammad b. Muslim

I asked Abu 'Abd Allah, peace be upon him, "How much is the dowry, that is in mut'ah?" So, he said, "Whatsoever they both mutually agree upon, up to whatsoever ".length of time he wishes

I said, "Tell me: what if she gets pregnant?" He said, "It is his child. And if he wishes to renew the union, he can do (that). In such a case, she would not be required to observe the 'iddah in his case. However, for anyone else, she must observe forty-five nights. Meanwhile, if inheritance is stipulated as a condition (of the mut'ah), then they (both must comply with their condition."(2

:Al-Majlisi comments

صحيح

(Sahih.(3

:Then, al-Ruhani also states

حسن

(Hasan.(4

There are however a few ahadith that confuse some of our people. Their texts are obscure, most probably due to inadvertent deficiencies in the transmission of the narrators. Nonetheless, these narrators were not infallible, and are therefore ,excused. We know, of course, with total certainty – based upon the Verse of al-Taṭhir

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۱ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۴, Ch. ۲۴

۲ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۴, Ch. ۲۴, ۶۶ (۱۱۴۱)

۳ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۸, ۶۵

۴ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۳۶

Hadith al-Thaqalayn and several other mutawatir and mu'tabar reports in our sources - that the Ahl al-Bayt as a whole were absolutely uniform and consistent in their teachings. This is why their obscure riwayat are – as a standard Shi'i practice - .interpreted in line with their explicit, authentic ahadith

:For instance, al-Kulayni says

محمد بن يحيى، عن أحمد بن محمد، عن ابن فضال، عن ابن بكير، عن محمد بن مسلم قال: سمعت أبا جعفر عليه السلام يقول فى الرجل يتزوج المرأه متعه: إنهما يتوارثان ما لم يشترطا وإنما الشرط بعد النكاح.

Muhammad b. Yahya – Ahmad b. Muhammad – Ibn Faḍḍal – Ibn Bukayr – :Muhammad b. Muslim

I heard Abu Ja'far, peace be upon him, saying concerning the man who marries the woman in mut'ah: "Verily, both of them inherit each other as long as they have not stipulated (a specified period as) a condition; and the condition is only after the (marriage."(١

:Al-Majlisi says

موثق

(Muwaththaq.(٢

:Explaining it, al-Ṭusi submits

فالمراد بهذا الخبر إذا لم يشترطا الأجل فإنهما يتوارثان دون أن يكون المراد به شرط الميراث

What is meant in this report is "if they have not stipulated the specified period as a condition". In such a case, they both inherit each other (by default). What is meant is (not the stipulation of inheritance as a condition.(٣

Of course, where no specified period is specified as a condition, then the nikah is not mut'ah. Rather, it is a permanent marriage; and inheritance is automatic in it. But, when a specified period is stipulated as a condition, then it

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۱ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۵, ۱

۲ - Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۵۵

۳ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۵, ۱۱۴۴) (Ch. ۲۴, ۶۹

.becomes mut'ah; and in mut'ah, inheritance is not automatic

:Another hadith that needs clarification is this one by al-Ṭusi

محمـد بن أحمـد بن يحيى عن أحمـد بن محمد عن البرقى عن الحسن بن الجهم عن الحسن بن موسـى عن سـعيد بن يسار عن أبي عبـد الله عليـه السـلام قـال: سـألته عن الرجـل يـتزوج المرأه متعه ولم يشـترط الميراث قـال: ليس بينهمـا ميراث اشـترط أولم يشترط.

Muhammad b. Ahmad b. Yahya – Ahmad b. Muhammad – al-Barqi – al-Hasan b. al-Jahm – al-Hasan b. Musa – Sa'id b. Yasar:

I asked Abu 'Abd Allah, peace be upon him, about the man who weds the woman in mut'ah, and he does not stipulate inheritance as a condition. He said, "There is no inheritance between them, whether it (i.e. the exclusion of inheritance) is stipulated as a condition or not."(1)

:Al-Ruhani comments

صحيح

Sahih.(2)

:And, al-Ṭusi explains

هذا الخبر المراد به ما قدمناه من أنه سواء اشترط أو لم يشترط فإنها لا ترث فإنه ليس لها ميراث، وإنما يحتاج ثبوته إلى شـرط لا ارتفاعه

The meaning of this report is what we previously stated, that whether it (i.e. the exclusion of inheritance) is stipulated as a condition or not, she does not inherit (ordinarily), there is no inheritance for her. Its existence needs a stipulated condition (affirming it), not its exclusion.(3)

:Al-Majlisi, also commenting upon this submission of al-Ṭusi, elucidates further

قوله سواء اشترط أى :نفى الميراث

His statement "whether it is stipulated as a condition", refers to the exclusion of

(inheritance.(۴

So, where the parties explicitly exclude inheritance from their mut’ah or they keep completely silent

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۱- (۱۱۴۱) ۶۷ ,Ibid, vol. ۷, pp. ۲۶۴-۲۶۵, Ch. ۲۴)

۲- - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۴۸

۳- - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۵, Ch. ۲۴

۴- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۹, ۶۶

about it, neither party inherits. If they intend to inherit each other, they must clearly declare it in their contract of nikah.

Mut'ah and its 'Iddah Periods

Theoretically, mut'ah can be for as short as one second, or as long as one billion years or more. But, whatever the length, the woman may be required to observe an 'iddah period immediately after the marital union. If they had sexual intercourse during their mut'ah, or if their private parts touch, 'iddah becomes obligatory upon the woman. Al-Kulayni reports:

على بن إبراهيم، عن أبيه، عن ابن أبى عمير، عن حماد، عن الحلبى، عن أبى عبد الله عليه السلام فى رجل دخل بامرأه قال: إذا التقى الختانان وجب المهر والعده.

'Ali b. Ibrahim – his father – Ibn Abi 'Umayr – Hammad – al-Halabi:

Abu 'Abd Allah, peace be upon him, said about a man who has sexual intercourse with a woman: "When the two circumcised parts meet, the dowry and the 'iddah become compulsory."(1)

Al-Majlisi says:

حسن

Hasan.(2)

Al-Ruhani also declares:

صحيح

Sahih.(3)

Al-Kulayni further documents:

على، عن أبيه، عن ابن أبى عمير، عن حفص بن البخترى، عن أبى عبد الله عليه السلام قال: إذا التقى الختانان وجب المهر والعده والغسل.

Ali – his father – Ibn Abi 'Umayr – Hafs b. al-Bakhtari – Abu 'Abd Allah, peace be upon' :him

When the two circumcised parts meet, the dowry, the 'iddah and the bath become (obligatory.(۴

:Al-Majlisi again states

حسن

(Hasan.(۵

:And al-Ruhani once more submits

صحيح

(Sahih.(۶

So, basically, the 'iddah is not obligatory until when the private parts of both spouses meet. Therefore, the question to ask is: did their private parts meet? If the answer

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Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi -۱ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۶, p. ۱۰۹, ۱

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -۲ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۱۸۵

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- -۳ Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۳, p. ۱۵

Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi -۴ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۶, p. ۱۰۹, ۲

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -۵ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۱۸۵

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- -۶ Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۳, p. ۱۵

.is a “yes”, then she must observe the ‘iddah period immediately after their separation

:There are, however, some exceptions. For instance, al-Kulayni records

حميد بن زياد، عن ابن سماعه، عن محمد بن زياد، عن عبد الله بن سنان، عن أبى عبد الله عليه السلام قال: قضى أمير المؤمنين عليه السلام فى المتوفى عنها زوجها ولم يمسها قال:لا تنكح حتى تعتد أربعه أشهر وعشرا، عده المتوفى عنها زوجها.

Humayd b. Ziyad – Ibn Sama’ah – Muhammad b. Ziyad – ‘Abd Allah b. Sinan – Abu ‘Abd :Allah, peace be upon him

Amir al-Muminin, peace be upon him, decided concerning the woman whose husband died, leaving her, before ever having intercourse with her. He said, “She cannot re-marry until after observing the ‘iddah for four months and ten days, the ‘iddah of the (woman whose husband dies.”(١

:Al-Majlisi comments

موثق

(Muwaththaq.(٢

Therefore, the widow must observe the ‘iddah, whether her private parts ever met .that of her dead mut’ah husband, or not

:The other exceptions to the ‘iddah rule are given in this hadith of al-Kulayni

أبو على الأشعرى، عن محمد بن عبد الجبار، والرزاز، عن أيوب بن نوح، وحميد بن زياد، عن ابن سماعه جميعا، عن صفوان، عن محمد بن حكيم، عن محمد بن مسلم، عن أبى جعفر عليه السلام قال: التى لا تحبل مثلها لا عده عليها.

Abu ‘Ali al-Ash’ari – Muhammad b. ‘Abd al-Jabbar AND al-Razzaz – Ayyub b. Nuh AND Humayd b. Ziyad – Ibn Sama’ah – Safwan – Muhammad b. Hakim – Muhammad b. :Muslim – Abu Ja’far, peace be upon him

,The one whose likes cannot become pregnant

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۶, p. ۱۱۹, ۸

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۲۰۴

(there is no 'iddah upon her.(1)

:Al-Majlisi declares

حسن.

(Hasan.(2)

:Al-Ruhani agrees with him

حسن

(Hasan.(3)

This is an obvious reference to underage girls – technically, any female below the age of nine - and women who have absolutely reached their menopause. Normally, mut'ah with an underage girl is not allowed. But, if it happens, then the girl is not required to observe any 'iddah, even if the man had violated her. As for a woman who has reached her menopause, temporary marriage with her is halal. However, she does not count any 'iddah after her separation from her mut'ah husband, whether he .had intercourse with her or not

:Al-Ṭusi also records

روى الحسين بن سعيد عن ابن أبى عمير عن حماد ابن عثمان قال: سألت أبا عبد الله عليه السلام عن التى قد يئست من المحيض والتى لا تحيض مثلها قال: ليس عليها عده.

:Al-Husayn b. Sa'id – Ibn Abi 'Umayr – Hammad b. 'Uthman

I asked Abu 'Abd Allah, peace be upon him, about the one who has despaired of menstruation and the one whose likes do not menstruate. He said, "There is no 'iddah (upon her."(4)

:Al-Ruhani says

صحيح

(Sahih.(٥

This reiterates the points in the hadith of Muhammad b. Muslim: the underage girl and the woman who has reached menopause do not observe any 'iddah after the mut'ah in any circumstance. As for the underage girl, her mut'ah is also invalid, to begin with. Meanwhile, if a woman has apparently reached her menopause, but there is still some doubt about it, then she must observe the required 'iddah if her temporary

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١ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۶, p. ٨۵, ٣

٢ - Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢١, p. ١۴۵

٣ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١۴١۴ H), vol. ٢٣, p. ١١

۴ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٨, p. ۶۶, (Ch. ٣, ١٣٧ (٢١٨

۵ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١۴١۴ H), vol. ٢٣, p. ١٠

(husband had intercourse with her.(١)

In any case, most Shi'i men would never go into mut'ah with an underage girl, due to its invalidity; and most of them would not want to do it with women above menopause either. Therefore, a typical temporary wife observes the 'iddah after it, if the union involved sexual intercourse. If there was no consummation of the nikah, then the woman is free to re-marry immediately after it without counting any 'iddah – except, of course, where the mut'ah husband died during the marriage, as we have already .mentioned

Let us now go into the various 'iddah counts for mut'ah. For women whose temporary :husbands die, their 'iddah period is stipulated in this ayah

والذين يتوفون منكم ويذرون أزواجا يتربصن بأنفسهن أربعه أشهر وعشرا

And those of you who die and leave wives behind them, they (the wives) shall wait for (four months and ten days.(٢)

The verse is universal, and applies equally to permanent and temporary marriages. It is direct and explicit. The widow in a mut'ah must observe 'iddah for four months and ten days. It also does not matter, as discussed above, whether she had intercourse :with her dead husband or not. Let us bring back al-Kulayni's hadith once again

حميد بن زياد، عن ابن سماعه، عن محمد بن زياد، عن عبد الله بن سنان، عن أبى عبد الله عليه السلام قال: قضى أمير المؤمنين عليه السلام فى المتوفى عنها زوجها ولم يمسها قال:لا تنكح حتى تعتد أربعه أشهر وعشرا، عده المتوفى عنها زوجها.

Humayd b. Ziyad – Ibn

See Qur'an ٦٥:٤ -١

Qur'an ٢:٢٣٤ -٢

Sama'ah – Muhammad b. Ziyad – 'Abd Allah b. Sinan – Abu 'Abd Allah, peace be upon him:

Amir al-Muminin, peace be upon him, decided concerning the woman whose husband died, leaving her, before ever having intercourse with her. He said, "She cannot remarry until after observing the 'iddah for four months and ten days, the 'iddah of the woman whose husband dies."(١)

Al-Majlisi rules:

موثق

Muwaththaq.(٢)

Al-Ṭusi also records:

روى محمد بن أحمد بن يحيى عن على بن إسماعيل عن صفوان عن عبد الرحمن بن الحجاج قال: سألت أبا عبد الله عليه السلام عن المرأه يتزوجها الرجل متعه ثم يتوفى عنها زوجها هل عليها العده؟ فقال: تعتد أربعه أشهر وعشرا فإذا انقضت أيامها وهو حى فحيضه ونصف مثل ما يجب على الأمه

Muhammad b. Ahmad b. Yahya – 'Ali b. Isma'il – Safwan – 'Abd al-Rahman b. al-Hajjaj:

I asked Abu 'Abd Allah, peace be upon him, about the woman who is married by her husband in mut'ah, then her husband died and left her: "Must she observe the 'iddah?" So, he said, "She observes the 'iddah for four months and ten days. But, if its days expire and he is alive, then it is one and a half month, the like of that which is obligatory upon the slave woman"(٣)

Al-Ruhani says:

صحيح

Sahih.(٤)

Therefore, where the temporary husband dies, the wife observes an 'iddah of four

months and ten days. But, as the hadith also indicates, where both parties are alive at the expiration of the mut’ah, the woman only observes an ‘iddah of one and a half month

p: ۱۰۶

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۶, p. ۱۱۹, ۸

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۲۰۴

۳- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۸, p. ۱۵۷, (Ch. ۶, ۱۴۳ (۵۴۴

۴- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۵۲

:forty-five days. Al-Kulayni reports this further confirmation –

محمـد بن يحيى، عن أحمـد بن محمد، عن ابن فضال، عن ابن بكير، عن زراره قال: عده المتعه خمسه وأربعون يوما كأنى أنظر إلى أبى جعفر عليه السلام يعقد بيده خمسه وأربعين فإذا جاز الاجل كانت فرقه بغير طلاق.

:Muhammad b. Yahya – Ahmad b. Muhammad – Ibn Faḍḍal – Ibn Bukayr – Zurarah

The ‘iddah of mut’ah is forty-five days. It is as though I am looking at Abu Ja’far, peace be upon him, forming “forty-five” with his hand. When the term (of the mut’ah) expires, there is separation (between the spouses) without divorce.[1]

:And al-Majlisi states

موثق

Muwaththaq.[2]

:However, there is some further explanation, which al-Ṭusi has recorded

محمـد بن يعقـوب عن على بن إبراهيم عن أبيه عن ابن أبى عمير عن ابن أذينه عن زراره عن أبى عبـد الله عليه السـلام أنه قـال: عده المتعه ان كانت تحيض فحيضه وإن كانت لا تحيض فشهر ونصف.

Muhammad b. Ya’qub – ‘Ali b. Ibrahim – his father – Ibn Abi ‘Umayr – Ibn Uzaynah – :Zurarah – Abu ‘Abd Allah, peace be upon him

The ‘iddah of mut’ah, IF SHE MENSTRUATES, is one menstruation. But, if she does not menstruate, then it is one and a half month.[3]

:Al-Ruhani comments

صحيح

Sahih.[4]

:The Sunni Imam, ‘Abd al-Razzaq (d. ٢١١ H), has a similar hadith

عبد الرزاق عن ابن جريج قال: أخبرنى أبو الزبير قال: سمعت جابر بن عبد الله يقول: استمتعنا أصحاب النبى صلى الله عليه وسلم، حتى نهى عمرو بن حريث، قال: وقال جابر: إذا انقضى الأجل فبدا لهما أن يتعاودا، فليمهرها مهرا آخر، قال:

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۸, ۳

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۴۴

۳- Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۸, p. ۱۶۵, (Ch. ۶, ۱۷۲ (۵۷۳

۴- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۵۲

وسأله بعضنا كم تعتد؟ قال: حيضه واحده

:Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr – Jabir b. ‘Abd Allah‘

We, the Sahabah of the Prophet, peace be upon him, did mut’ah until ‘Amr b. Hurayth“ ”.was forbidden

Jabir also said, “When the time expires, and both (spouses) wish to repeat (the mut’ah), then he must give her another dowry”. One of us asked him, “How long is her (‘iddah?” He said, “A single menstruation.”(١

.This riwayah is hasan, as we have established in the Preface

Thus, the ‘iddah of forty-five days is only for women who do not menstruate. This obviously refers to women whose likes menstruate, and whose likes get pregnant. However, they do not menstruate, perhaps due to certain medical conditions or situations. For a woman who menstruates, her ‘iddah lasts till the end of a menstrual .period

:Then, there is this hadith of al-Kulayni

على بن إبراهيم، عن أبيه، عن ابن أبى عمير، عن عمر بن أذينه، عن إسماعيل ابن الفضل الهاشمى قال: سألت أبا عبد الله عليه السلام عن المتعه فقال: الق عبد الملك بن جريج فسله عنها فإن عنده منها علما فلقيته فأملى على منها شيئا كثيرا فى استحلالها فكان فيما روى لى ابن جريج قال: ليس فيها وقت ولا عدد إنما هى بمنزله الإماء يتزوج منهن كم شاء وصاحب الأربع نسوه يتزوج منهن ما شاء بغير ولى ولا شهود فإذا انقضى الاجل بانت منه بغير طلاق ويعطيها الشئ اليسير وعدتها حيضتان وإن كانت لا تحيض فخمسه وأربعون يوما فأتيت بالكتاب أبا عبد الله عليه السلام فعرضت عليه فقال: صدق وأقر

١- Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al-Rahman al-A’ẓami], vol. ٧, p. ۴٩٩, ١۴٠٢۵

به قـال: ابن أذينه و كـان زراره بن أعين يقول هـذا ويحلف أنه الحق إلاـ أنه كـان يقول: إن كانت تحيض فحيضه وإن كانت لا تحيض فشهر ونصف.

Ali b. Ibrahim – his father – Ibn Abi 'Umayr – 'Umar b. Uzaynah – Isma'il b. al-Faḍl al-'Hashimi:

I asked Abu 'Abd Allah, peace be upon him, concerning mut'ah, and he said, "Meet 'Abd al-Malik b. Jurayj and ask him about it, for he has knowledge of it." So, I met him, and he dictated to me of it a lot of things concerning its legitimacy. And part of what Ibn Jurayj narrated to me, he said: "There is no specific length or any (maximum) number (of the wives) in it. They are only of the status of slave women: he marries any number of them as he wishes, and the husband of four women (also) marries from them whatever he wishes, with no wali or witnesses. When the (agreed) term expires, she separates from him without divorce, and he gives her the small thing; and her 'iddah is two menstruations, and if she does not menstruate, then forty-five days."

Then, I brought the document to Abu 'Abd Allah, peace be upon him, and I presented to him. So, he said, "He spoke the truth", and he confirmed it.

Ibn Uzaynah said: Zurarah b. A'yan used to say, "This", and he would swear, "is the truth", except that he used to say: "If she menstruates, then it is a menstruation; and if she does not

(menstruate, then a month and a half”.(1)

:Al-Majlisi declares

حسن

(Hasan.(2)

:Ayatullah al-Ruhani also states

صحيح أو حسن

(Sahih or Hasan.(3)

Abd al-Malik b. Jurayj (d. 150 H) was a giant Sunni scholar of that era. He was‘ apparently one of the few Salaf who still believed in mut’ah. Imam al-Dhahabi (d. 748 :H) documents about him

قال أبو غسان زنيج: سمعت جريرا الضبى يقول: كان ابن جريج يرى المتعه، تزوج بستين امرأه. وقيل: إنه عهد إلى أولاده فى أسمائهن لئلا يغلط أحد منهم ويتزوج واحده مما نكح أبوه بالمتعه.

Abu Ghassan Zunayj said: I heard Jarir al-Ḍabi saying: “Ibn Jurayj believed in the legitimacy of mut’ah. He married sixty women. And it is said that he informed his children of their names, in case one of them made a mistake and married one of those (whom his father had married in mut’ah.”(4)

:He also records

وقال محمد بن عبد الله بن عبد الحكم، سمعت الشافعى يقول: استمتع ابن جريج بتسعين امرأه

Muhammad b. ‘Abd Allah b. ‘Abd al-Hakam said: I heard al-Shafi’i saying: “Ibn Jurayj (did mut’ah with ninety women.”(5)

The practice of Ibn Jurayj is interesting. Mut’ah is technically a tool of necessity. But, was he really pushed by necessity into marrying sixty or ninety women?! Or, was he only abusing it? Well, perhaps, one may say that he was forced by the needs of those women, rather than his own. He only wanted to help them – to keep them company,

privately discuss their problems with them, do his best to help them, and maybe also .satisfy their sexual needs

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Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi -۱ (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۱, ۶

Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar -۲ al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۲

Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al- -۳ Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۵۱

Shams al-Din Muhammad b. Ahmad b. 'Uthman al-Dhahabi, Siyar A'lam al-Nubala -۴ (Beirut: Muasassat al-Risalah; ۹th edition, ۱۴۱۳ H) [annotators of the sixth volume: Shu'ayb al-Arnauṭ and Husayn al-Asad], vol. ۶, p. ۳۳۱, ۱۳۸

Ibid, vol. ۶, p. ۳۳۳, ۱۳۸ -۵

So, he would be making a lot of personal sacrifices to help women of Islam (or those of Judaism and Christianity) who had no one by their side.

Anyway, Ibn Jurayj stated that the ‘iddah of a woman who menstruated was two menstruations, and Imam al-Sadiq, ‘alaihi al-salam, confirmed his statement. This then establishes that the ‘iddah for a woman in mut’ah who menstruates is of two types: (i) a menstruation or (ii) two menstruations. Both types are proved in the authentic ahadith of the Ahl al-Bayt. It then depends upon the choice of the two parties, whichever type they agreed upon in their mut’ah contract. Al-Majlisi submits in this regard:

وحمل الزائده على الحيضه على الاستحباب لا يخلو من قوه

The classification of the addition upon the (single) menstruation as mustahab (recommended) is not devoid of strength.(١)

So, the two-menstruation type could be classified as the mustahab, and the one-menstruation type as the standard. Nonetheless, what matters most to our research is that both types are correct; and that either of them is validly available to the mut’ah spouses. Meanwhile, if the woman does not menstruate – and her likes do – then, her ‘iddah is immutably fixed at forty-five days. No options are given in such a case.

What then happens if the woman in a concluded mut’ah is pregnant from it? How long is her ‘iddah? Shaykh al-Kulayni reports:

حميد بن زياد، عن ابن سماعه، عن محمد بن زياد، عن عبد الله بن سنان، عن أبى عبد الله عليه السلام قال: الحبلى المتوفى

١- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٤٣

عنها زوجها عدتها آخر الأجلين.

Humayd b. Ziyad – Ibn Sama’ah – Muhammad b. Ziyad – ‘Abd Allah b. Sinan – Abu ‘Abd Allah, peace be upon him:

The pregnant wife whose husband dies and leaves her, her ‘iddah is the longer of the two periods.(١)

Al-Majlisi comments:

موثق

Muwaththaq.(٢)

The two periods are her standard ‘iddah – had she not been pregnant – and her expected delivery date. For a widow, the ‘iddah is four months and ten days. If she is pregnant, however, and her expected delivery date is more than four months and ten days, then her ‘iddah shall be until she delivers. However, if her expected delivery date is shorter than four months and ten days, then the standard ‘iddah of the widow shall apply. In the same manner, if she prematurely delivers, or she has a miscarriage, before four months and ten days, in that case, her ‘iddah shall be only four months and ten days.

Al-Kulayni also documents:

عده من أصحابنا، عن أحمد بن محمد بن خالد، وعلى بن إبراهيم، عن أبيه، عن عثمان بن عيسى، عن سماعه قال: قال: المتوفى عنها زوجها الحامل أجلها آخر الأجلين إذا كانت حبلى فتمت لها أربعه أشهر وعشر ولم تضع فإن عدتها إلى أن تضع وإن كانت تضع حملها قبل أن يتم لها أربعه أشهر وعشرا تعتد بعدما تضع تمام أربعه أشهر و عشرا وذلك أبعد الأجلين.

A number of our companions – Ahmad b. Muhammad b. Khalid AND ‘Ali b. Ibrahim – his father – ‘Uthman b. ‘Isa – Sama’ah:

The pregnant wife whose husband dies

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۶, p. ۱۱۴, ۶

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۱۹۶

and leaves her, her period shall be the longer of the two periods. If she is pregnant, and four months and ten days pass while she still has not delivered, then her ‘iddah shall be until she delivers. But, if she delivers her pregnancy before the completion of four months and ten days, she observes the ‘iddah after her delivery until the completion of four months and ten days. And that is the longer of the two periods.[1]

Al-Majlisi says:

موثق وعليه الفتوى

Muwaththaq, and upon it is the fatwa.[2]

Al-Ruhani concurs too:

موثق

Muwaththaq.[3]

This, however, is for a pregnant widow – whether in a permanent marriage or in a mut’ah. What then about the temporary wife who is pregnant and her husband is alive, at the time of their separation? The Qur’an gives the answer very clearly:

وأولات الأحمال أجلهن أن يضعن حملهن

And for those who are pregnant, their (waiting) period is until they deliver their pregnancies.[4]

Al-Kulayni also documents:

على بن إبراهيم، عن أبيه، عن ابن أبى نجران، عن عاصم بن حميد، عن محمد ابن قيس، عن أبى جعفر عليه السلام قال: الحامل أجلها أن تضع حملها وعليه نفقتها بالمعروف حتى تضع حملها.

Ali b. Ibrahim – his father – Ibn Abi Najran – ‘Asim b. Humayd – Muhammad b. Qays – ‘Abu Ja’far, peace be upon him:

The (waiting) period of the pregnant woman is until she delivers her pregnancy; and upon him (i.e. the husband) is her good maintenance until she delivers her

(pregnancy.(5

:Al-Majlisi says

حسن

(Hasan.(6

:And al-Ruhani also declares

صحيح أو حسن

(Sahih or Hasan.(7

This obviously raises the possibility that

١- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۶, pp. ١١٣-١١۴, ١

٢- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢١, p. ١٩۵

٣- - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١۴١۴ H), vol. ٢٢, p. ۵۶

۴- Qur'an ۶۵:۴

۵- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۶, p. ١٠٣, ١

۶- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢١, p. ١٧٣

٧- - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ٣rd edition, ١۴١۴ H), vol. ٢٢, p. ٣٣٢

the ‘iddah of the mut’ah wife could be as long as nine months.

Children Of Mut’ah

And, whatever pregnancy the woman has from mut’ah is legitimate, and so are all children from it. Al-Ṭusi reports:

أحمد بن محمد بن أبى نصر عن عاصم بن حميد عن محمد بن مسلم عن أبى عبد الله عليه السلام قال قلت له: أرأيت إن حبلت؟ قال: هو ولده.

Ahmad b. Muhammad b. Abi Nasr – ‘Asim b. Humayd – Muhammad b. Muslim:

I said to Abu ‘Abd Allah, peace be upon him, “Tell me: what if she gets pregnant?” He said, “It is his child.”[1]

Al-Majlisi says:

صحيح

Sahih.[2]

Al-Ruhani agrees:

صحيح

Sahih.[3]

Al-Ṭusi again records:

الحسين بن سعيد عن النضر عن عاصم بن حميد عن عن محمد مسلم قال: سألت أبا عبد الله عليه السلام كم المهر – يعنى فى المتعه –؟ فقال: ما تراضيا عليه إلى ما شاء من الأجل، قلت: أرأيت ان حملت فقال: هو ولده فان أراد ان يستقبل أمرا جديدا فعل وليس عليها العده منه وعليها من غيره خمسه وأربعون ليله وان اشترطت الميراث فهما على شرطهما.

Al-Husayn b. Sa’id – al-Naḍr – ‘Asim b. Humayd – Muhammad b. Muslim:

I asked Abu ‘Abd Allah, peace be upon him, “How much is the dowry, that is in mut’ah?” So, he said, “Whatsoever they both mutually agree upon, up to whatsoever length of time he wishes.”

I said, “Tell me: what if she gets pregnant?” He said, “It is his child. And if he wishes to renew the union, he can do (that). In such a case, she would not be required to observe the ‘iddah in his

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۱- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, al-Istibṣar (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۳, p. ۱۵۲, Ch. ۱۰۰, ۱ (۵۵۷)

۲- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۶۷, ۷۸

۳- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۴۳

case. However, for anyone else, she must observe forty-five nights. Meanwhile, if inheritance is stipulated as a condition (of the mut'ah), then they both must comply (with their condition."(1)

:Al-Majlisi comments

صحيح

(Sahih.(2)

:Al-Ruhani also states

حسن

(Hasan.(3)

:Al-Ṭusi further documents

أحمد بن محمد بن عيسى عن محمد بن إسماعيل بن بزيع قال: سأل رجل الرضا عليه السلام وانا اسمع عن الرجل يتزوج المرأه متعه ويشترط عليها ان لا يطلب ولدها فتأتى بعد ذلك بولد فينكر الولد فشدد فى ذلك وقال يجحد؟ وكيف يجحد اعظاما لذلك؟ قال الرجل فان اتهمها قال: لا ينبغى لك ان تتزوج إلا مأمونه ان الله يقول: الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

:'Ahmad b. Muhammad b. 'Isa – Muhammad b. Isma'il b. Bazi

A man asked al-Riḍa, peace be upon him, while I was listening, about the man who marries the woman in mut'ah and he imposes a condition upon her that he will not seek her child. But, she later comes with a child and he severely denies the child. So, he (al-Riḍa) said, "Does he deny? How can he deny primarily because of that?" Then, the man said, "What if he accuses her (of fornication)?" He (al-Riḍa) said, "It is not appropriate for you to marry except a faithful woman. Verily, Allah the Almighty says: {The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made (HARAM for the believers}.(4)

:Al-Majlisi declares

صحيح

(Sahih.(5

:And al-Ruhani concurs

صحيح

(Sahih.(6

,Then

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1 - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. 7, p. 264, (Ch. 24, 66 (1141

2 - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; 1407 H), vol. 12, p. 58, 65

3 - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; 3rd edition, 1414 H), vol. 22, p. 36

4 - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. 7, p. 269, (Ch. 24, 82 (1157

5 - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; 1407 H), vol. 12, p. 69, 81

6 - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; 3rd edition, 1414 H), vol. 22, p. 43

:he explains

)ويشترط عليها أن لا يطلب ولدها (أى يعزل عنها

and he imposes a condition upon her that he will not seek her child) meaning, he will) (use (the contraceptive method of) coitus interruptus with her.(١)

So, even if the man had always used coitus interruptus during the temporary marriage, he is still unable to validly deny the paternity of the child, if pregnancy occurs during their union. This, obviously, is one of the reasons why mut'ah with :promiscuous women is not allowed. Note especially this part of the hadith

قال الرجل فان اتهمها قال: لا ينبغى لك ان تتزوج إلا مأمونه ان الله يقول: الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

Then, the man said, "What if he accuses her (of fornication)?" He (al-Riḍa) said, "It is not appropriate for you to marry except a faithful woman. Verily, Allah the Almighty says: {The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made .{HARAM for the believers

Therefore, the temporary wife must be so completely chaste and faithful that if she gets pregnant despite her husband's regular use of coitus interruptus, there will nonetheless be absolutely no doubt in his mind that he is the genuine father of the child. It is highly significant that the Imam did not endorse even the man's accusation of zina against the woman as a sufficient reason to deny

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Ibid -١

his fatherhood of the child. Instead, he warned that the Shi'i man must never marry in mut'ah any woman with the slightest likelihood of committing adultery. Otherwise, the Shi'i man could put himself at a great disadvantage, in which he might be unable to free himself from the paternity of a child that is not biologically his.

Every denial of paternity is a direct claim that the wife had intercourse outside of wedlock. Therefore, the success or failure of the denial by the temporary husband rests squarely on his ability to prove this. Typically, he accuses the wife of adultery, and produces his arguments and evidences or witnesses. If he wins, he frees himself from the unwanted burden. However, the standard of proof in zina cases can be truly very stringent(۱). Therefore, the chances of success are sometimes hopelessly low. Meanwhile, if he is unable to prove that his wife committed adultery, then he also cannot deny the paternity of her child. Even logically, a woman who has not committed zina cannot possibly give birth to any illegitimate child - except, perhaps, in cases of rape!

Worse still, the husband in a mut'ah has no access to li'an, which is a relatively easier tool for successfully denying paternity or claiming adultery against the wife, in a permanent marriage(۲). Al-Kulayni reports:

محمـد، عن أحمـد، عن ابن محبوب، عن العلاء بن رزين، عن ابن أبى يعفور، عن أبى عبد الله عليه السـلام قال: لا يلاعن الرجل المرأه التى يتمتع بها.

Muhammad – Ahmad – Ibn Mahbub

۱- See, for instance, Qur'an ۴:۱۵ and ۲۴:۴

۲- See Qur'an ۲۴:۶-۹

:al-‘Ala b. Razin – Ibn Abi Ya’fur – Abu ‘Abd Allah, peace be upon him –

(The man does not do li’an against the woman with whom he does mut’ah.(١

:Al-Majlisi says

صحيح

(Sahih.(٢

:Al-Ruhani concurs

صحيح

(Sahih.(٣

Apparently, the temporary husband does not have many good options. As such, whoever intends to practise mut’ah must watch very carefully the chastity, .faithfulness and trustworthiness of the woman he seeks to choose as his wife in it

Renewal Of The Mut’ah

Our Shi’i man contracts his mut’ah with a righteous Muslim, Jewish or Christian woman for a certain period of time. However, as time passes, he sees a lot of good virtues –spiritual or mundane – in her, and wishes to extend their relationship. Al-Kulayni documents that he can do that:

عده من أصحابنا، عن سهل بن زياد، وعلى بن إبراهيم، عن أبيه جميعا، عن عبد الرحمن بن أبى نجران، وأحمد بن أبى نصر، عن أبى بصير قال: لا بأس بأن تزيدك وتزيدها إذا انقطع الاجل فيما بينكما تقول: استحللتك بأجل آخر برضا منها ولا يحل ذلك لغيرك حتى تنقضى عدتها.

A number of our companions – Sahl b. Ziyad AND ‘Ali b. Ibrahim – his father – ‘Abd al-Rahman b. Abi Najran AND Ahmad b. Abi Nasr – Abu Basir:

There is no problem if you renew your union when the period (mutually agreed) between both of you expires. You say, “I seek to marry you for another term”, subject to her consent. That is not permissible for anyone apart from you until she completes

(her ‘iddah.(۴)

:Al-Majlisi states

حسن كالصحيح

(Hasan ka al-Sahih.(۵)

,And referring to the same hadith

۱- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۶, p. ۱۶۶, ۱۷

۲- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۱, p. ۲۷۶

۳- - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۴۴

۴- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۸, ۱

۵- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۴۴

:al-Ruhani says

صحيح أبى بصير عن أبى جعفر عليه السلام فى المتعه

(The sahih report of Abu Basir from Abu Ja'far, peace be upon him, on mut'ah.(١

So, it is marfu' - and not mawquf as it appears to be - and it is sahih. It does establish directly, of course, that the renewal can only be done after the end of the ongoing .mut'ah

:Al-Ṭusi also says

الحسين بن سعيد عن النضر عن عاصم بن حميد عن عن محمد مسلم قال: سألت أبا عبد الله عليه السلام كم المهر - يعنى فى المتعه -؟ فقال: ما تراضيا عليه إلى ما شاء من الأجل، قلت: أرأيت ان حملت فقال: هو ولده فان أراد ان يستقبل أمرا جديدا فعل وليس عليها العده منه وعليها من غيره خمسه وأربعون ليله وان اشترطت الميراث فهما على شرطهما.

:Al-Husayn b. Sa'id – al-Naḍr – 'Asim b. Humayd – Muhammad b. Muslim

I asked Abu 'Abd Allah, peace be upon him, "How much is the dowry, that is in mut'ah?" So, he said, "Whatsoever they both mutually agree upon, up to whatsoever ".length of time he wishes

I said, "Tell me: what if she gets pregnant?" He said, "It is his child. And if he wishes to renew the union, he can do (that). In such a case, she would not be required to observe the 'iddah in his case. However, for anyone else, she must observe forty-five nights. Meanwhile, if inheritance is stipulated as a condition (of the mut'ah), then they (both must comply with their condition."(٢

:Al-Majlisi states

صحيح

(Sahih.(٣

:Al-Ruhani, on his own, submits

حسن

(Hasan.(۴

Imam

p: ۱۱۹

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۱ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۵۷

۲ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۴, (Ch. ۲۴, ۶۶ (۱۱۴۱

۳ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۸, ۶۵

۴ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۳۶

:Abd al-Razzaq of the Ahl al-Sunnah is not left out either‘

عبد الرزاق عن ابن جريج قال: أخبرني أبو الزبير قال: سمعت جابر بن عبد الله يقول: استمتعنا أصحاب النبي صلى الله عليه وسلم، حتى نهى عمرو بن حريث، قال: وقال جابر: إذا انقضى الأجل فبدا لهما أن يتعاودا، فليمهرها مهرا آخر، قال: وسأله بعضنا كم تعتد؟ قال: حيضه واحده

:Abd al-Razzaq – Ibn Jurayj – Abu al-Zubayr – Jabir b. ‘Abd Allah‘

We, the Sahabah of the Prophet, peace be upon him, did mut’ah until ‘Amr b. Hurayth“ ”.was forbidden

Jabir also said, “When the time expires, and both (spouses) wish to repeat (the mut’ah), then he must give her another dowry”. One of us asked him, “How long is her (‘iddah?” He said, “A single menstruation.”(١

.This chain is hasan, as we have repeatedly mentioned

The Shi’i man, therefore, can validly negotiate and start a new temporary marriage with the same woman, even during her ‘iddah. Meanwhile, the new marriage with the same man lawfully overturns and cancels the waiting period. The ability to propose a new mut’ah to her, or to re-marry her, during her ‘iddah is strictly restricted to her fresh ex-husband. Once her waiting period completes, the man loses his monopoly of that right, and she becomes legally available for marriage to every qualified Muslim man. Of course, the success of the renewal attempts depends upon the consent of .the woman

Al-Zawaj bi Niyyah Al-Talaq, The Sunni Attempt to Reinvent Mut’ah .۶

After declaring mut’ah to be haram, Sunni Muslims were faced with the very situations which it was meant

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Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al- - ١ Rahman al-A’ẓami], vol. ٧, p. ۴۹۹, ١۴٠٢۵

to address. But, unable to backtrack on it, the ‘ulama of the Ahl al-Sunnah instead invented a new form of marriage – called al-zawaj bi niyyah al-ṭalaq (marriage with the intention of divorce) – to cater for their needs. Its nature is exactly as its name suggests: the “marriage” is contracted with a deliberate intention to dissolve it sometimes in the future. To say this in clearer words, it is a temporary form of nikah!

Here, al-Hafiẓ (d. ٨٥٢ H) opens the floor about this Sunni-invented marriage:

قال عياض وأجمعوا على أن شرط البطلان التصريح بالشرط فلو نوى عند العقد أن يفارق بعد مده صح نكاحه الا الأوزاعى فأبطله

‘Iyaḍ said: “They unanimously agreed that the condition of invalidity is to openly disclose the condition (of time limit). So, if he intends, during the ‘aqd (i.e. the formalization of the marriage) to separate after a period, his marriage is correct. Only al-Awza’i disagreed, and he declared it invalid.”(١)

So, when a Sunni man wishes to temporarily marry a woman, he must never disclose his real intention to her. If he does that, it becomes illegal for him to proceed with the marriage. However, as long as he does not tell her, he is allowed to marry her with his hidden intention to divorce her after a period of time. He knows of his secret plan in his heart, but must never let the woman discover it until when it happens.

Imam al-Nawawi (d. ٦٧٦ H) also mentions:

قال القاضى وأجمعوا على أن من نكح نكاحا مطلقا

١- Shihab al-Din Ibn Hajar al-‘Asqalani, Fath al-Bari Sharh Ṣahih al-Bukhari (Beirut: Dar al-Ma’rifah li al-Ṭaba’ah wa al-Nashr; ٢nd edition), vol. ٩, p. ١٥٠

ونيته أن لا يمكث معها الا مـده نواها فنكاحه صـحيح حلال وليس نكاح متعه وإنما نكاح المتعه ما وقع بالشـرط المذكور ولكن قال مالك ليس هذا من أخلاق الناس وشذ الأوزاعى فقال هو نكاح متعه ولا خير فيه والله أعلم

Al-Qadi said, “They unanimously agreed that whoever contracts an (outwardly) permanent marriage while his (real) intention is to stay with her for only a period of time which he intends, then his marriage is correct and halal, and is not a mut’ah marriage. The mut’ah marriage is only that which occurs with the (previously) mentioned condition. However, Malik said, ‘It is not from the manners of the people.’ As for al-Awza’i, he disagreed and said, ‘It is a mut’ah marriage, and there is no good (in it.’” And Allah knows best.(١)

Of course, it is NOT mut’ah! Al-Awza’i was definitely very wrong. In mut’ah, both parties – again, both parties – mutually and voluntarily agree on the temporary nature of their prospective union, and on the exact time of its end. However, in this Sunni-invented “marriage”, both would-be spouses outwardly agree on a permanent marriage while the man inwardly intends only a temporary relationship. He basically tricks the unsuspecting woman till the very end.

Shaykh Ibn Taymiyyah (d. ٧٢٨ H) has his submission too:

وسـئل رحمه الله عن رجل ركاض يسـير فى البلاد فى كل مدينه شهرا او شهرين ويعزل عنها ويخاف ان يقع فى المعصيه فهل له ان يتزوج فى مده إقامته فى تلك البلده وإذا سافر طلقها وأعطاها حقها أو لا وهل

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١ - Abu Zakariyyah Yahya b. Sharaf al-Nawawi, Ṣahih Muslim bi Sharh al-Nawawi (Beirut: Dar al-Kitab al-‘Arabi; ١st edition, ١۴٠٧ H), vol. ٩, p. ١٨٢

يصح النكاح أم لا

فأجاب له أن يتزوج لكن ينكح نكاحا مطلقا لا يشترط فيه توقيتا بحيث يكون إن شاء مسكها وإن شاء طلقها وإن نوى طلاقها حتما عند انقضاء سفره كره فى مثل ذلك وفى صحه النكاح نزاع ولو نوى أنه إذا سافر واعجبته أمسكها وإلا طلقها جاز ذلك فأما أن يشترط التوقيت فهذا نكاح المتعه الذى اتفق الأئمه الأربعه وغيرهم على تحريمه

He (Ibn Taymiyyah), may Allah be merciful to him, was asked about a running man, who goes through countries, spending a month or two months in each city, and then leaves it; and he fears that he might commit sin. So, can he marry during the period of his stay in those cities, divorcing her when he travels and giving her right to her? Or ?can he not? And is the marriage valid or not

:So, he (Ibn Taymiyyah) answered

He can marry. However, he contracts an (outwardly) permanent marriage. He cannot openly disclose any time limit as its condition, so that if he wishes he retains her, and if he wishes he divorces her. But, if he absolutely intends to divorce her at the end of his journey (in the city), the like of that is disliked (makruh), and there is dispute concerning the validity of such marriage. If he intends that when he travels, if he loves her he will retain her, and if otherwise, he will divorce her, that is permissible. However, to (openly) disclose a time limit as a condition, that would be the marriage of

(mut'ah, which is unanimously agreed to be haram by the four Imams and others.(١)

:"He also states about this same type of "marriage

والصحيح أن هذا ليس بنكاح متعه ولا يحرم وذلك أنه قاصد للنكاح وراغب فيه بخلاف المحلل لكن لا يريد دوام المرأه معه وهذا ليس بشرط فإن دوام المراه معه ليس بواجب بل له أن يطلقها فإذا قصد أن يطلقها بعد مده فقد قصد أمرا جائزا

The correct opinion is that it is not a mut'ah marriage, and it is not haram. And that is: he intends marriage and is desirous of it, as opposed to the practitioner of al-tahlil. However, he does not want the permanency of the woman with him; and this is not a condition, as the permanency of the woman with him is not obligatory. Rather, he has the right to divorce her. So, when he intends to divorce her after a period, he has (intended a permissible affair.(٢)

Ibn Taymiyyah apparently attempts to refine this Sunni invention. He therefore introduces a new condition: the man must intend that if he loves her at the end of his stay in the town, city or country, he may retain her. But then, even if he loves her, he still has the right NOT to retain her after having used her. He is free to divorce her, despite his love for her, and permanently move away from her. To Ibn Taymiyyah, as .long as the man holds that in his secret intentions, the marriage is correct

Imam Ibn Qudamah (d. ٦٢٠

p: ١٢٤

Abu al-'Abbas Ahmad b. 'Abd al-Halim b. Taymiyyah al-Harrani, Majmu' al-Fatawa, -١ vol. ٣٢, pp. ١٠٦-١٠٧

Ibid, vol. ٣٢, p. ١٤٧ -٢

:H) submits this fatwa as well

وان تزوجها بغير شرط الا أن فی نیته طلاقها بعد شهر أو إذا انقضت حاجته فی هذا البلد فالنكاح صحیح فی قول عامه أهل العلم الا الأوزاعی قال هو نكاح متعه والصحیح انه لا بأس به ولا تضر نیته

If he marries her without (openly disclosing) any condition (of time limit), except that (in his heart) he intends to divorce her after a month, or after fulfilling his need in this town, then the marriage is valid according to the statement of the generality of the scholars except al-Awza'i. He said: "It is a mut'ah marriage". The correct opinion is that there is no problem with it, and his intention does no harm.(۱)

:Shaykh Sayyid Sabiq also declares

اتفق الفقهاء علی أن من تزوج امرأه دون أن یشترط التوقیت وفی نیته أن یطلقها بعد زمن، أو بعد انقضاء حاجته فی البلد الذی هو مقیم به، فالزواج صحیح. وخالف الأوزاعی فاعتبره زواج متعه.

The jurists unanimously agree that whoever marries a woman without (openly disclosing) any time limit as a condition, and his intention is to divorce her after a period of time, or after the fulfilment of his need in the town where he resides, then the marriage is valid. But, al-Awza'i disagreed and called it a mut'ah marriage.(۲)

Honestly, we find it insulting to Allah and His Messenger, sallallahu 'alaihi wa alihi, to equate the divinely legislated mut'ah with this Sunni-invented "marriage". Their distance, in all ways and manners, is far more than that between the heavens and the

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۱- Abu Muhammad 'Abd Allah b. Ahmad b. Muhammad b. Qudamah, al-Mughni (Dar al-Kitab al-'Arabi), vol. ۷, p. ۵۷۳

۲- Sayyid Sabiq, Fiqh al-Sunnah (Beirut: Dar al-Kitab al-'Arabi; ۳rd edition, ۱۳۹۷ H), vol. ۲, p. ۴۵

.earth

:So, to do a recap, before the Sunni-invented “marriage” could be valid

i) the would-be “husband” must never openly disclose any time limit for the proposed) ;”marriage to the would-be “wife

ii) if he openly discloses to the woman that their “marriage” would only be temporary) ;or for a period of time, then it would be invalid

iii) however, he is allowed to formulate a time limit for the “marriage” in his mind, and) ;to enforce it

iv) yet, he must always pretend to the woman that he is permanently “married” to) ;her, and that he has no premeditated intention of ever leaving her

v) the only problem is the open disclosure of a time limit for the proposed or ongoing) ;marital union – whether it is specified or obscure

vi) as long as the (would-be) “husband” keeps his time limit for the “marriage” in his) ;heart, serious on carrying it out, there is no problem

vii) Ibn Taymiyyah introduced the condition that the man must also uphold a non-) ;binding plan to retain the woman after the intended time limit if he loves her

.viii) but, if he dumps her despite loving her, there is no blame on him)

To understand how the Ahl al-Sunnah practise their innovated “marriage”, let us illustrate with a scenario. Let us assume that a major Saudi Salafi shaykh is invited by a Salafi organization in the United Kingdom to a Salafi conference. He is to stay in ,London for three days. However, he is unable to bring any of his three wives along

due to visa problems. Therefore, he will remain without any of his women throughout his three-day stay in England. But, after spending just over twenty four hours in London, he experiences very strong sexual urges. He fears committing adultery. So, he discusses the option of this Sunni-invented “marriage” with his British hosts. They are to help him find a suitable “wife” for it, with whom he satisfies his sexual urges .until he leaves the United Kingdom

His hosts discuss with various Christian, Jewish and Salafi women. There is a pious shaykh from Saudi Arabia, they tell them, and he wants a fourth wife. They must never inform the women that the shaykh only wants a “wife” for about forty-eight hours or less. Otherwise, it would be haram to proceed with the plan. Therefore, the Salafi hosts assure all the women that the marriage is intended to be permanent: it is not a mut’ah, and there is no premeditated time limit to it. One of the women asks whether the shaykh intends to relocate to Britain, or if she is expected to move to Saudi Arabia. They tell her that she will permanently join him in the Arabian kingdom as soon as the necessary immigration processes are completed. They must never let her discover that the Salafi shaykh never intends to stay with her beyond forty-eight hours. If they do, the marriage becomes haram under the Sunni Shari’ah. So, they !must absolutely deceive her in order to make the “marriage” lawful

Luckily, there

are four different successful candidates among the women. But, the shaykh cannot marry more than one of them. He already has three wives in Saudi Arabia. Therefore, he has only the option of a single makeshift "wife", as the women in this innovated "marriage" are counted among the four legitimate wives. As a result, his British hosts devise a plan. He "marries" one of them around ٨:٠٠ am. Fortunately, none of them is a virgin in the Shari'i sense, and all of them are financially capable. So, the shaykh has intercourse with her around ٩.٠٠ am. Then, he "divorces" her at about ١٠:٠٠ am. He needs no reason in order to do the divorce, and he owes no one – not even the "divorced wife" – any explanation for it. Then, he "marries" the second "wife", has sex with her, and "divorces" her too after some hours. Using the same method, he successfully "marries" and sleeps with, and "divorces" all four of the women before he .leaves the United Kingdom

This is al-zawaj bi niyyah al-ṭalaq; and what the shaykh has done is perfectly halal in Sunni fiqh. In fact, he is lawfully allowed to "marry" a qualified woman for just one hour or less, "divorcing" her immediately after enjoying sex with her. He literally has the right to "marry", sleep with and immediately "divorce" as many women as he wishes on any given day – as long as he does not exceed four wives (in addition to his (standard women

at a time, and he is able to flawlessly pull wool over their eyes concerning the true .”nature of their “marriages

The keen observer notices an absolute lack of proof for this Sunni-invented marriage. There is no ayah of the Qur’an to back it, nor any reliable Sunni hadith. Without doubt, it is a blatant bid’ah; and its proponents and practitioners are all, thereby, people of heresy. Moreover, since it is a non-Shari’i union, any sexual contact made within it is .indisputably zina

Shi’i Ahadith Misused About Mut’ah .٧

point

We have seen the Ahl al-Sunnah quoting certain ahadith from the Shi’i books in desperate efforts to “prove” mut’ah wrong. We will be examining these riwayat here, with the Grace and Help of Allah. Meanwhile, we strongly advise our brothers and sisters from the Ahl al-Sunnah wa al-Jama’ah and the Shi’ah Imamiyyah: whenever anyone – whether Sunni, Shi’i or otherwise - claims to you that a certain hadith exists in the Shi’i sources, demand adamantly that he must produce (i) its full Arabic text with its chain of narration, (ii) evidence of the reliability of its sanad, (iii) its primary source with the full citation, (iv) a declaration that it does not originate from a ḍa’if source book, (v) a declaration that it does not contradict the Qur’an as interpreted in authentic Shi’i ahadith, and (v) a declaration that it does not contradict superior Shi’i ahadith. When you do this, you have already won ٢/٣ of the battle to defeat deceit and .trickery

Hadith One

(Shaykh al-Ṭusi (d. ۴۶۰ H

:records

فأما ما رواه محمـد بن أحمـد بن يحيى عن أبي الجوزا عن الحسـين بن علوان عن عمرو بن خالـد عن زيد بن علي عن آبائه عن علي عليهم السلام قال: حرم رسول الله صلى الله عليه وآله لحوم الحمر الأهليه ونكاح المتعه.

Muhammad b. Ahmad b. Yahya – Abu al-Jawza – al-Husayn b. ‘Alwan – ‘Amr b. Khalid :– Zayd b. ‘Ali – his fathers – ‘Ali, peace be upon them

The Messenger of Allah, peace be upon him and his family, forbade the meat of (domestic donkey and the marriage of mut’ah.(١

:He also documents in his Tahdhib

واما ما رواه محمـد بن يحيى عن أبي جعفر عن أبي الجوزا عن الحسـين بن علوان عن عمرو بن خالـد عن زيد بن علي عن آبائه عن علي عليهم السلام قال: حرم رسول الله صلى الله عليه وآله يوم خيبر لحوم الحمر الأهليه ونكاح المتعه.

Muhammad b. Yahya – Abu Ja’far – Abu al-Jawza – al-Husayn b. ‘Alwan – ‘Amr b. :Khalid – Zayd b. ‘Ali – his fathers – ‘Ali, peace be upon them

The Messenger of Allah, peace be upon him and his family, forbade the meat of (domestic donkey and the marriage of mut’ah on the Day of Khaybar.(٢

:Shaykh ‘Ali Al Muhsin comments on it

هذه الروايه ضـعيفه السـند بعمرو بن خالد الواسـطي، فإنه لم يوثَّق في كتب الرجال، واختُلف في مذهبه، فقيل: إنه من أهل السنه والمشهور أنه من رؤساء الزيديه، وأغلب رواياته يرويها عن زيد بن علي، ومنها هذه الروايه .

ومن جمله رواه هذا الحديث الحسين بن علوان، وهو سُنِّي المذهب، وعباره النجاشي

Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, al-Istibṣar (Tehran: Dar al-Kutub al- - ١ Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٣, p. ١٤٢, Ch. ٩٢, ٥ ((٥١١

Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al- - ٢ Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٧, p. ٢٥١,

(Ch. ۲۴, ۱۰ (۱۰۸۵

فی ترجمته موهمه تحتمل عود التوثیق فیها إلیه أو إلی أخیه الحسن، ولا توثیق آخر له، ولهذا فنحن متوقفون فیه، وإن وثّقه بعض الأعلام، وضعَّفه بعض آخر .

والحاصل أن هذا الحدیث اشتمل علی راوٍ زیدی، وآخر سُنی المذهب، وکلاهما لم یثبت توثیقهما، وما قیل فی توثیقهما لیس محلاً للاعتماد والوثوق.

This report has a ḍa’if chain, due to ‘Amr b. Khalid al-Wasiṭi, for there is no tawthiq (accreditation) for him in the books of al-rijal. There is also dispute about his sect. It is said that he was from the Ahl al-Sunnah. However, the widespread opinion is that he was from the leaders of the Zaydiyyah, and he narrated most of his reports from Zayd b. ‘Ali, including this report.

One of the narrators of this hadith is also al-Hasan b. ‘Alwan, and he was a Sunni by sect. As for the statement of al-Najashi in his tarjamah, it is inconclusive. It is possible that the tawthiq in it refers to him or to his brother, al-Hasan; and there is no other tawthiq for him. For this reason, we stop short about him, even those some of the great ‘ulama call him thiqah while others declare him ḍa’if.

In conclusion, this hadith has a Zaydi reporter, and another who belonged to the Sunni sect; and tawthiq is not established for both of them. As for the tawthiq that is said for them both, it is neither reliable nor trustworthy.(١)

‘Allamah al-Majlisi (d. ١١١١ H) also declares about the hadith above:

ضعیف أو موثق

Ḍa’if or Muwaththaq.(٢)

Apparently,

p: ١٣١

١- Ali Al Muhsin, Lillah wa li al-Haqiqah (٢nd edition, ١٤٢٥ H), vol. ١, p. ٢٠٩

٢- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ١٤٠٧ H), vol. ١٢, p. ٣٢, ١٠

the best that the chain of the hadith can be is muwaththaq. However, in line with the Shi’i rijali manhaj, if a muwaththaq-chained hadith contradicts a sahih-chained hadith, the former becomes munkar (rejected) and therefore very ḍa’if. Al-Ṭusi submits:

وأما العداله المراعاه فی ترجیح أحد الخبرین علی الاخر فهو: أن یکون الراوی معتقدا للحق، مستبصرا ثقه فی دینه، متحرجا من الکذب غیر متهم فیما یرویه.

فأما إذا کان مخالفا فی الاعتقاد لأصل المذهب وروی مع ذلک عن الأئمه علیهم السلام نظر فیما یرویه. فان کان هناک من طرق الموثوق بهم ما یخالفه وجب اطراح خبره.

As for the ‘adalah that is required in the preference of one of two reports over another, it is: that the narrator should have the true ‘aqidah, enlightened, trustworthy in his religion, who avoids telling lies, not accused in what he narrates.

But, if he deviates in ‘aqidah from the root of the (Shi’i) sect, and narrates nonetheless from the Imams, peace be upon them, what he narrates is looked at. If there is what contradicts it from the routes of trusted narrators, it becomes obligatory to throw away his report.(١)

As our esteemed reader can clearly see, the report of al-Husayn b. ‘Alwan and ‘Amr b. Khalid above contradicts – not one or two, but – several sahih Shi’i ahadith that explicitly establish the unbroken legitimacy of mut’ah! This makes it severely unreliable, ḍa’if jiddan. Meanwhile, an additional argument against this hadith of al-Husayn and ‘Amr is that it further contradicts the Qur’an – specifically, the Verse of al-Mut’ah

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١ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, al-‘Uddah fi Uṣul al-Fiqh (Qum: Muasassat al-Ba’thah; ١st edition, ١۴١٧ H) [annotator: Muhammad Riḍa al-Anṣari al-Qummi], vol. ١, pp. ١۴٨-١۴٩

and several dual-purpose ayahs, which have declared the purity of temporary marriage till the Last Hour. This makes it mawḍu’ (a fabrication) without a doubt. No wonder, after mentioning that the chain of the riwayah of Husayn and ‘Amr is either “ḍa’if or muwaththaq”, al-Majlisi immediately proceeds to proclaim:

الأظهر أنه من مفتريات الزيديه، كما يظهر من أكثر أخبارهم

The most apparent is that it is from the FABRICATIONS of the Zaydiyyah, as obvious from most of their reports.(١)

So, the hadith is mawḍu’.

Hadith Two

Ahmad b. Muhammad b. ‘Isa al-Ash’ari is also said to have documented:

قال محمد بن أبی عمیر، عن عبد الله بن سنان، قال: سألت أبا عبد الله علیه السلام عن المتعه؟ فقال: لا تدنس نفسک بها

Muhammad b. Abi ‘Umayr – ‘Abd Allah b. Sinan:

I asked Abu ‘Abd Allah, peace be upon him, about mu’tah. So, he said, “Do not desecrate yourself with it.”(٢)

The first problem with this report is that it is from a ḍa’if book. While it is true that Ahmad b. Muhammad b. ‘Isa did write a Nawadir, it has not reached us through authentic means, and there is not enough evidence to establish that what we have today is a true copy of his original book. Rather, ‘Allamah al-Muhsini declares about al-Nawadir as we have it in our hands:

والحق عدم إعتبار أحادیثها المنقوله فی البحار و الوسائل و المستدرک وما یوجد فی النسخه المطبوعه منها

The truth is the UNRELIABILITY of its ahadith which are quoted in al-Bihar, al-Wasail and al-Mustadrak, and whatever is found in the published manuscript

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١- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum:

Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۲, ۱۰

Abu Ja'far Ahmad b. Muhammad b. 'Isa al-Ash'ari al-Qummi, Kitab al-Nawadir - ۲
(Qum: Muasassat al-Imam al-Mahdi; ۱st edition, ۱۴۰۸ H), p. ۸۷, ۱۹۸

(from it.(1)

Whoever seeks the detailed arguments about the unreliability of the book's transmission to al-Majlisi (d. ۱۱۱۱ H), al-Hurr al-'Amili (d. ۱۱۰۴ H)and to us is strongly .(referred to the academic research of al-Muhsini on it(2)

:Mirza al-Nuri (d. ۱۳۲۰ H) also submits

وأما ثالثا: فقوله رحمه الله} : ولـذا لم ينقل عنه الحر فى الوسائل {فإن فيه أنه من أين علم أن الكتاب كان عنـده ولم يعتمـد عليه ولـذا لم ينقـل عنه؟ بل المعلوم المتيقن أنه كغيره من الكتب المعتبره لم يكن عنـده، ولو كان لنقل عنه قطعا، فإنه ينقل عن كتب هى دونه بمراتب من جهه المؤلف، أو لعدم ثبوت النسـبه إليه، أو ضـعف الطريق إليه، كفضل الشـيعه للصدوق، وتحف العقول، وتفسير فرات، وإرشاد الديلمى، ونوادر أحمد بن محمد بن عيسى، والاختصاص للمفيد.

And thirdly, as for his statement, may Allah be merciful to him {this is why al-Hurr in al-Wasail did not quote from it}, what is there is: how did he know that the book was with him and he did not rely upon it and so did not quote from it? Rather, what is undoubtably certain is that it, like other authentic books, was not with him. If it had been, he would certainly have quoted from it, because he quoted from books that are inferior to it by degrees in terms of (the unreliability of) the author, or due to the unreliability of its (i.e. the book's) attribution to him, or the weakness of the chain (of the book) to him, like Faḍl al-Shi'ah of al-Saduq, Tuhaf

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1- Muhammad Aṣif al-Muhsini, Buhuth fi 'Ilm al-Rijal (Markaz al-Muṣtafa al-'Alami li Tarjamah wa al-Nashr), p. ۴۲۲, ۳

2- Ibid, pp. ۴۲۱-۴۲۴, ۳

al-‘Uqul, Tafsir al-Furat, Irshad of al-Daylami, Nawadir of Ahmad b. Muhammad b. ‘Isa, and al-Ikhtisas of al-Mufid.(١)

He lists al-Nawadir among the ḍa’if books which al-Hurr al-‘Amili relies upon in his Wasail. So, whatever is quoted from it – in al-Bihar, al-Wasail or its published editions – is ḍa’if by default.

Meanwhile, the hadith is equally mawḍu’ on account of its opposition to the Verse of al-Mut’ah and several sahih ahadith.

Hadith Three

Ahmad b. Muhammad b. ‘Isa al-Ash’ari is further said to have recorded:

ابن أبى عمير، عن هشام بن الحكم، عن أبى عبد الله عليه السلام، قال: ما تفعلها عندنا إلا الفواجر

Ibn Abi ‘Umayr – Hisham b. al-Hakam – Abu ‘Abd Allah, peace be upon him:

None does it, in our view, except the unchaste.(٢)

It comes from a ḍa’if book. Therefore, it is ḍa’if. But then, it is also obscure. What exactly is it that is done by the unchaste? It is not mentioned. So, it is not known. However, if it is were a reference to mut’ah, then the hadith would become mawḍu’ due to its contradiction with the Verse of al-Mut’ah and numerous sahih ahadith.

Hadith Four

Shaykh al-Kulayni (d. ٣٢٩ H) records:

عده من أصحابنا، عن سهل بن زياد، عن على بن أسباط، ومحمد بن الحسين جميعا، عن الحكم بن مسكين، عن عمار قال: قال أبو عبد الله عليه السلام لى ولسليمان بن خالد: قد حرمت عليكما المتعه من قبلى ما دمتما بالمدينه لأنكما تكثران الدخول على فأخاف أن تؤخذا، فيقال: هؤلاء أصحاب جعفر.

A number of our companions – Sahl b. Ziyad – ‘Ali b. Asbaṭ

۱ - Mirza Husayn b. Muhammad Taqi al-Nuri al-Ṭabarsi, Khatimah Mustadrak al-Wasail (Qum: Muasassat Al al-Bayt ‘Alaihim al-Salam li Ihya al-Turath; ۱st edition, ۱۴۱۵ H), vol. ۱, pp. ۳۰-۳۱

۲ - Abu Ja’far Ahmad b. Muhammad b. ‘Isa al-Ash’ari al-Qummi, Kitab al-Nawadir (Qum: Muasassat al-Imam al-Mahdi; ۱st edition, ۱۴۰۸ H), p. ۸۷, ۲۰۰

:AND Muhammad b. al-Husayn – al-Hakam b. Miskin – ‘Ammar

Abu ‘Abd Allah, peace be upon him, said to me and Sulayman bl Khalid, “I have made mut’ah (temporary marriage) haram upon you both as long as you are in al-Madinah, because you frequently visit me and I fear that you might be arrested, and it would be said, ‘These are companions of Ja’far.’”(١)

:Allamah al-Majlisi comments‘

ضعيف على المشهور

Ḍa’if upon the mainstream (standards).(٢)

:Al-Jawahiri also states about one of its narrators

سهل بن زياد: أبو سعيد الآدمى، الرازى ... ضعيف جزما أو لم تثبت وثاقته

Sahl b. Ziyad, Abu Sa’id al-Adami al-Razi ...: decidedly ḍa’if or his trustworthiness is not established.(٣)

:About another narrator, he further declares

الحكم بن مسكين الثقفى : ... مجهول

Al-Hakam b. Miskin al-Thaqafi ...: Majhul.(۴)

.So, it is genuinely ḍa’if

Those who quote it seek to prove that mut’ah is haram through it. However, it actually establishes the opposite of that! According to the ḍa’if hadith, both ‘Ammar and Sulayman were forbidden to do temporary marriage in Madinah but free to practise it elsewhere. Moreover, the prohibition covered only both of them, and did not extend generally to all Shi’is. Besides, it was done to protect both ‘Ammar and Sulayman from arrest and possible persecution or even execution. The Ahl al-Sunnah had declared mut’ah a form of zina. Therefore, the Sunni government in al-Madinah could arrest the two Shi’is and accuse them of fornication or adultery. They both could be stoned

to death, or lashed, depending on their marital status, as a result of their

p: ۱۳۶

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۶۷, ۱۰

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۲۶

۳- Muhammad al-Jawahiri, al-Mufid min Mu'jam al-Rijal al-Hadith (Qum: Manshurat Maktabah al-Mahalati; ۲nd edition, ۱۴۲۴ H), p. ۲۷۳, ۵۶۳۰

۴- Ibid, p. ۱۹۱, ۳۸۷۹

mut'ah; and that could soil the name of Imam Ja'far – with whom they were known – among the general Sunni public. From the look of it, in line with the ḍa'if report, the Madinah governorate was stricter against temporary marriage than other Sunni .provinces

.In any case, the hadith is ḍa'if. Therefore, it is of no probative value

Hadith Five

:Al-Kulayni documents

على بن محمـد، عن صالـح بن أبى حمـاد، عن ابن سـنان، عن المفضـل بن عمر قـال: سـمعت أبا عبـد الله عليه السـلام يقول فى المتعه: دعوها أما يستحيى أحدكم أن يرى فى موضع العوره فيحمل ذلك على صالحى إخوانه وأصحابه.

:Ali b. Muhammad – Salih b. Abi Hammad – Ibn Sinan – al-Mufaḍḍal b. 'Umar'

I heard Abu 'Abd Allah, peace be upon him, saying about mut'ah: "Abandon it. Would any of you be ashamed to be seen at the place of blemish, and that is placed upon his (righteous brothers and companions?"(١

:Al-Majlisi says

ضعيف

(Ḍa'if.(٢

:Then, he adds

قوله عليه السـلام :) أن يرى فى موضع العوره (أى يراه النـاس فى موضع يعيب من يجـدونه فيه ، لكراهتهم للمتعه فيصـير ذلك سببا للضرر عليه وعلى إخوانه

His statement, peace be upon him (to be seen at the place of blemish) meaning, the people see him at a place where whosoever they find there is condemned, due to their abhorrence of mut'ah, hence that becomes a cause of harm to him and to his (brothers.(٣

This seems to be a conditional ban imposed to curb the harm which accrues to

righteous Shi’is from ignorant Sunnis. Wherever the practice of

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۱ - Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۳, ۴

۲ - Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۴

۳ - Ibid

mut’ah would not put the Shee’ah in danger, then the prohibition would not apply. In any case, the hadith is ḍa’if. Meanwhile, if its texts does question the legitimacy of mut’ah, then it is in contradiction to the Verse of al-Mut’ah, and therefore mawḍu’.

Hadith Six

Al-Kulayni reports:

على بـن إبراهيـم، عـن أبيـه، عـن ابن أبى عمير، عن بعض أصـحابنا، عن زراره، عن أبى جعفر عليه السـلام قـال: قلت له: جعلت فـداك الرجـل يـتزوج المتعه وينقضـى شـرطها ثم يتزوجهـا رجـل آخر حتى بـانت منه ثم يتزوجهـا الأـول حتى بـانت منه ثلاـثا وتزوجت ثلاثه أزواج يحل للأول أن يتزوجها؟ قال: نعم كم شاء ليس هذه مثل الحره هذه مستأجره وهى بمنزله الإماء.

‘Ali b. Ibrahim – his father – Ibn Abi ‘Umayr – one of our companions – Zurarah:

I said to Abu Ja’far, peace be upon him, “May I be sacrificed for you. The man marries in mut’ah and its term expires. Then, another man marries her until she separates from him. Then, the first (man) re-marries her until she separates from him three times; and she married three husbands. Is it permissible for the first (man) to re-marry her (again)?” He said, “Yes, any number of times he wishes. This one is not like the free woman. This one is rented, and she is of the status of the slave woman.”(١)

Al-Majlisi declares:

حسن وعليه الأصحاب

Hasan, and upon it are the companions (i.e. the scholars).(٢)

However, it is actually mursal and therefore ḍa’if. Al-Majlisi grades it hasan, apparently because he belongs to the camp of Shi’i scholars

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١- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ٥, p. ٤٦٠, ١

٢- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٤٧

who accept the marasil of Ibn Abi ‘Umayr – as in this case. Our great leader, ‘Allamah al-Khui (d. ١۴١١ H), traces the origin of this practice:

أقول: الأصل فی هـذه الدعوی هو الشـیخ - قدس سره -، فقد قال فی أواخر بحثه عن خبر الواحد فی کتاب العده ...) : ولأجل ذلک سوت الطائفه بین ما یرویه محمـد بن أبی عمیر، وصـفوان بن یحیی، وأحمـد بن محمـد بن أبی نصـر، وغیرهم من الثقات الذین عرفوا بأنهم لا یروون ولا یرسلون إلا عمن یوثق به، وبین ما أسنده غیرهم(...

I say: The root of this claim was Shaykh, may Allah sanctify his secret, for he had said at the end of his research concerning the solitary report in Kitab al-‘Uddah:

“... It is for this reason that the ṭaifah have equated the reports of Muhammad b. Abi ‘Umayr, Safwan b. Yahya, and other thiqah narrators - whom they know that they did not narrate or do irsal except from those that were trusted - with what others narrated in musnad (fully connected) manners....”(١)

Then, he adds:

فمن المطمأن به أن منشأ هـذا الـدعوی هو دعوی الکشـی الاجماع علی تصـحیح ما یصـح عن هؤلاء. وقـد زعم الشـیخ أن منشـأ الاجماع هو أن هؤلاء لا یروون إلا عن ثقه، وقد مر قریبا بطلان ذلک.

From what is certain is that the origin of this claim (of Shaykh al-Ṭusi) was the claim of al-Kashi that there was ijma’ (consensus) upon the authentication of whatsoever is authentically transmitted from these people. The Shaykh had claimed that the origin of the

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١ - Abu al-Qasim al-Musawi al-Khui, Mu’jam Rijal al-Hadith wa Tafṣil Ṭabaqat al-Ruwat (۵th edition, ١۴١٣ H), vol. ١, p. ۶١

ijma’ was that these people did not narrate except from thiqah narrators, and the fallacy of that has just been mentioned.(1)

So, there was a claim of ijma’ by al-Kashi upon the acceptance of whatsoever Ibn Abi ‘Umayr and a few other people narrated. From this claim of al-Kashi, al-Ṭusi concluded that Ibn Abi ‘Umayr never narrated except from thiqah narrators. His conclusion became accepted among many ‘ulama; and, as such, they accepted all his ahadith indiscriminately, including even where he has not given the name of his source. However, as al-Khui demonstrates, both the ‘ijma itself and the conclusion from it were made in error. He first declares:

ولكن هذه الدعوى باطله

But, this claim (i.e. that they narrated from thiqah narrators only) is fallacious.(2)

Then, with specific reference to Ibn Abi ‘Umayr, he debunks the myth surrounding him:

وهذا ابن أبى عمير، روى عن على بن أبى حمزه البطائنى كتابه، ذكره النجاشى والشيخ، وروى محمد بن يعقوب بسند صحيح عن ابن أبى عمير عن على بن أبى حمزه وروى بسند صحيح عن ابن أبى عمير عن الحسين بن أحمد المنقرى، والحسين بن أحمد المنقرى، ضعفه النجاشى والشيخ. وروى الشيخ بسند صحيح عن ابن أبى عمير، عن على بن حديد وعلى ابن حديد ضعفه الشيخ فى موارد من كتابيه وبالغ فى تضعيفه. وتقدمت روايته عن يونس بن ظبيان آنفا. وأما روايته عن المجاهيل غير المذكورين فى الرجال فكثيره

And this is Ibn Abi ‘Umayr. He narrated from ‘Ali b. Abi Hamzah al-Baṭaini his book. Al-Najashi and Shaykh mentioned it. Muhammad b. Ya’qub also narrated with:

١- Ibid

٢- Ibid

a sahih chain from Ibn Abi ‘Umayr from ‘Ali b. Abi Hamzah; and he also narrated with a sahih chain from Ibn Abi ‘Umayr from al-Husayn b. Ahmad al-Munqiri, and al-Husayn b. Ahmad al-Munqiri was declared ḍa’if by al-Najashi and Shaykh. Shaykh too narrated with a sahih chain from Ibn Abi ‘Umayr from ‘Ali b. Hadid, and ‘Ali b. Hadid was declared ḍa’if by Shaykh at many places in his two books, and he was extremely emphatic in declaring him ḍa’if. His report from Yunus b. Ẓabyan has been previously mentioned. As for his reports from majhul narrators who are not mentioned in the rijal books, then they are several.(١)

Basically, Ibn Abi ‘Umayr used to narrate from ḍa’if narrators, and even from al-Baṭaini who was a liar! There are sahih chains reaching up to him confirming these crucial facts. As such, the basis for accepting his narrations without question, including his marasil, is defeated by this reality. Worse still, Ibn Abi ‘Umayr himself never claimed that he narrated from reliable narrators only. It was just some ‘ulama who made the apparently erroneous claim about him. Writing about Ibn Abi ‘Umayr and his colleagues, and the claim that they never narrated except from thiqah narrators, al-Khui further states:

ومن الظاهر أنه لم ينسب إلى أحد هؤلاء إخباره وتصريحه بذلک، وليس لنا طريق آخر لکشفه

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From what is apparent is that it is not attributed to any of these people his information or declaration of that, and there is no other way for

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۱- Ibid, vol. ۱, p. ۶۴

(us to discover it.(1)

The bottomline then is that the marasil of Ibn Abi ‘Umayr are ḍa’if like the other :marasil. This is what al-Khui concludes as well

تقدم عن النجاشی فی أن الأصحاب سکنوا إلی مراسیل ابن أبی عمیر، وذکر مثل ذلک الشیخ فی کتاب العده، ولکنا قد تعرضنا فی المقدمه، إلی أن هذا الکلام لا أساس له، وأنه لا فرق بین مراسیله ومراسیل غیره من الثقات.

We have earlier quoted al-Najashi saying that the companions (i.e. scholars) relied upon the marasil of Ibn Abi ‘Umayr, and Shaykh mentioned the like of that in Kitab al-‘Uddah. However, we have indicated in the Introduction that this statement has no basis, and that there is no difference between his marasil and the marasil of other (thiqah narrators.(2)

Therefore, the hadith of Zurarah above is ḍa’if, as it is a mursal report of Ibn Abi :‘Umayr. Those who quote it seek to prove

i) the mut’ah wife is “rented” for sex in the marriage; and)

.ii) she is like a slave woman)

:Well, the comparison of the temporary wife to the slave woman is strictly relative

a) a man may have as many slave women with whom he enjoys sexual relations as) ;he wants

b) in the same manner, the husband may have mut’ah relationships with as many) ;women as he wants at the same time

c) the master of a slave woman needs no wali or witnesses in order to enjoy a) ;concubinage with her

(d) the husband of a temporary wife needs no wali (except in the case of a virgin)

۱- Ibid, vol. ۱, p. ۶۳

۲- Ibid, vol. ۱۵, p. ۲۹۷, ۱۰۰۴۳

and no witnesses (except where he voluntarily chooses to have them) in order to formalize the mut'ah with her;

e) the slave woman exits the concubinage without divorce;

f) the temporary wife separates from the husband without a divorce.

These are the only areas of similarity between the mut'ah wife and the slave concubine. In everything else, they are different. This hasan or sahih hadith of al-Kulayni, which we have already quoted in full in this book, testifies to this:

ليس فيها وقت ولا عدد إنما هى بمنزله الإماء يتزوج منهن كم شاء وصاحب الأربع نسوه يتزوج منهن ما شاء بغير ولى ولا شهود فإذا انقضى الاجل بانت منه بغير طلاق ويعطيها الشئ اليسير

There is no specific length or any (maximum) number (of the wives) in it. They are only of the status of slave women: he marries any number of them as he wishes, and the husband of four women (also) marries from them whatever he wishes, with no wali or witnesses. When the (agreed) term expires, she separates from him without divorce, and he gives her the small thing.

As for the claim that she is "rented" for sex in the mut'ah, we will have more to say about this. But, first, let us examine the other ahadith which also described her as "rented". Al-Kulayni gives us the second report, as well:

محمد بن يحيى، عن أحمد بن محمد بن عيسى، عن الحسين بن سعيد، ومحمد بن خالد البرقى، عن القاسم بن عروه، عن عبد الحميد، عن محمد بن مسلم، عن أبى جعفر عليه

السلام فی المتعه قال: لیست من الأربع لأنها لا تطلق ولا ترث وإنما هی مستأجره.

Muhammad b. Yahya – Ahmad b. Muhammad b. ‘Isa – al-Husayn b. Sa’id AND Muhammad b. Khalid al-Barqi – al-Qasim b. ‘Urwah – ‘Abd al-Hamid – Muhammad b. :Muslim

Abu Ja’far, peace be upon him, said concerning mut’ah: “She is not from the four (permanent wives), because she is not divorced and she does not inherit. She is only a (rented woman.”(١

:Al-Majlisi states

مجهول

(Majhul.(٢

:And al-Jawahiri declares concerning one of its narrators

القاسم بن عروه: أبو محمد مولی أبی أیوب الخوزی – مجهول

(Al-Qasim b. ‘Urwah, Abu Muhammad, freed slave of Abu Ayyub al-Khawzi: Majhul.(٣

:Meanwhile, al-Barqi is equally said to have documented this hadith

وعنه، عن العباس بن معروف، عن القاسم بن عروه: عن عبد الحمید الطائی، عن محمد بن مسلم، قال: قلت لأبی جعفر علیه السلام : لم لا تورث المرأه عمن یتمتع بها؟ –قال: لأنها مستأجره، وعدتها خمسه وأربعون یوما

And from him – al-‘Abbas b. Ma’ruf – al-Qasim b. ‘Urwah – ‘Abd al-Hamid al-Ṭai – :Muhammad b. Muslim

I said to Abu Ja’far, peace be upon him, “Why does the woman not inherit the one who does mut’ah with her?” He said, “It is because she is a rented woman, and her ‘iddah (is forty-five days.”(٤

This is from al-Qasim b. ‘Urwah, the same majhul narrator, and it is therefore also ḍa’if. Besides, Kitab al-Mahasin is also a ḍa’if book, as it has not reached us through .authentic means.(٥) That compounds the unreliability of the hadith

And, here is al-Kulayni with the final

p: ۱۴۴

۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۱, ۵

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۲

۳- Muhammad al-Jawahiri, al-Mufid min Mu'jam al-Rijal al-Hadith (Qum: Manshurat Maktabah al-Mahalati; ۲nd edition, ۱۴۲۴ H), p. ۴۶۴, ۹۵۲۱

۴- Abu Ja'far Ahmad b. Muhammad b. Khalid al-Barqi, Kitab al-Mahasin (Tehran: Dar al-Kutub al-Islamiyyah; ۱st edition), vol. ۲, p. ۳۳۰, ۹۰

۵- See Muhammad Aṣif al-Muhsini, Buhuth fi 'Ilm al-Rijal (Markaz al-Muṣtafa al-'Alami li Tarjamah wa al-Nashr), pp. ۴۲۴-۴۲۵, ۴; Muhammad Aṣif al-Muhsini, Mashra'ah Bihar al-Anwar (Beirut: Muasassat al-'Arif li al-Maṭbu'at; ۲nd edition, ۱۴۲۶ H), vol. ۱, p. ۱۴

hadith on this matter:

الحسين بن محمد، عن أحمد بن إسحاق، عن سعدان بن مسلم، عن عبيد بن زراره، عن أبيه، عن أبى عبد الله عليه السلام قال: ذكرت له المتعه أهى من الأربع؟ فقال: تزوج منهن ألفا فإنهن مستأجرات.

Al-Husayn b. Muhammad – Ahmad b. Ishaq – Sa’dan b. Muslim – ‘Ubayd b. Zurarah – his father:

I mentioned mut’ah to him, “Is she from the four?” So, he said, “Marry a thousand of them, for they are rented women.”[1]

And, al-Majlisi submits:

مجهول

Majhul.[2]

This basically establishes that there is NO authentic basis for referring to mut’ah wives as rented women.

But then, let us assume, for the sake of argument, that she is rented. Is it really for sex? There are two possibilities here:

(i) The woman is rented for sex in mut’ah. Therefore, there can be no mut’ah without intercourse.

(ii) The woman is not rented for sex in mut’ah. As such, there can be mut’ah without intercourse.

There is no third way to this. If mut’ah is only a “rental” of the woman for sex, then any mut’ah without sex is no mut’ah. However, as al-Kulayni has reported, mut’ah can be without sex, and still be mut’ah:

محمد بن يحيى، عن أحمد وعبد الله ابنى محمد بن عيسى، عن على بن الحكم، عن زياد بن أبى الحلال قال: سمعت أبا عبد الله عليه السلام يقول: لا بأس بأن يتمتع بالبكر ما لم يفض إليها مخافه كراهيه العيب على أهلها.

Muhammad b. Yahya – Ahmad and ‘Abd Allah, sons of Muhammad b. ‘Isa – ‘Ali b. al-

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۱- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۲, ۷

۲- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۳

:b. Abi al-Hilal

I heard Abu ‘Abd Allah, peace be upon him, saying: “There is no problem in doing mut’ah with the virgin as long as he does not have sex with her, for fear of the disgust (of the blemish upon her family.”(1)

:Al-Majlisi declares

صحيح

(Sahih.(2)

Even the locus classicus in this matter, the mursal hadith of Ibn Abi ‘Umayr, affirms :the same truth. Al-Ṭusi documents

روى محمد بن يعقوب عن على بن إبراهيم عن أبيه عن ابن أبى عمير عن بعض أصحابنا عن زراره عن أبى جعفر عليه السلام قال: قلت له: جعلت فداك تتزوج المتعه وينقضى شرطها ثم يتزوجها رجل آخر حين بانت منه ثم يتزوجها الرجل الأول حين بانت منه ثلاثا وتزوجت ثلاثه أزواج يحل للأول ان يتزوجها؟ قال: نعم كم شاء ليس هذه مثل الحره هذه مستأجره وهى بمنزله الإماء. ومتى تزوج الرجل امرأه متعه وشرطت عليه ان لا يطأها فى فرجها فليس له إلا ما اشترطت.

Muhammad b. Ya’qub - ‘Ali b. Ibrahim – his father – Ibn Abi ‘Umayr – one of our :companions – Zurarah

I said to Abu Ja’far, peace be upon him, “May I be sacrificed for you. Mut’ah was contracted and its term expires. Then, another man marries her when she separates from him. Then, the first man re-marries her when she separates from him, three times; and she married three husbands. Is it permissible for the first (man) to re-marry her (again)?” He said, “Yes, any number of times he wishes. This one is not like the free woman. This one is rented, and she

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1- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. 5, p. 462, 2

2- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar

al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٥١

is of the status of the slave woman. And when the man marries a woman in mut’ah, and she imposes a condition upon him that he shall not have sexual intercourse with her, then there is nothing for him except whatever is stipulated as a condition.”(١)

?So, then, how exactly is mut’ah a “rental” of the woman for sex

Hadith Seven

:Shaykh al-Ṭusi records

واما ما رواه أحمد بن محمد عن أبى الحسن عن بعض أصحابنا يرفعه إلى أبى عبد الله عليه السلام قال: لا تتمتع بالمؤمنه فتذلها.

Ahmad b. Muhammad – Abu al-Hasan – one of our companions – Abu ‘Abd Allah, :peace be upon him

Do not do mut’ah with a muminah (believing woman), thereby humiliating her.(٢)

:Then, al-Ṭusi himself declares

فهذا الخبر مقطوع الاسناد مرسل

This report has a disconnected chain, mursal.(٣)

.So, it is ḍa’if; and that basically deals with it

Hadith Eight

:Al-Ṭusi reports

روى محمد بن أحمد بن يحيى عن أحمد بن محمد عن على ابن حديد عن جميل عن زراره قال: سأل عمار وانا عنده عن الرجل يتزوج الفاجره متعه قال: لا بأس وإن كان التزويج الآخر فليحصن بابه.

Muhammad b. Ahmad b. Yahya – Ahmad b. Muhammad – ‘Ali b. Hadid – Jamil – :Zurarah

Ammar asked, while I was with him, about the man who marries the prostitute in‘ mut’ah. He said, “There is no problem. But, if it were the other marriage, then he must fortify his door.”(٤)

:And, in his Istibsar, he proclaims

وأما خبر زراره فالطريق إليه على بن حديد وهو ضعيف جدا لا يعول على ما ينفرد بنقله

As for the report of Zurarah, the route to

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۱ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۷۰, Ch. ۲۴, ۸۴ (۱۱۵۹)

۲ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, al-Istibṣar (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۳, p. ۱۴۳, Ch. ۹۳, ۴ ((۵۱۵

۳- Ibid

۴ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۳, Ch. ۲۴, ۱۵ (۱۰۹۰)

him is ‘Ali b. Hadid and he is ḍa’if jiddan. Whatever he alone narrates is not relied upon.(1)

Therefore, the report is ḍa’if jiddan in its sanad.

Al-Majlisi too says about the hadith:

ضعيف

Ḍa’if.(2)

Meanwhile, it also directly contradicts this ayah of the Qur’an:

الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made haram for the believers.(3)

On this account alone, the hadith is mawḍu’.

Hadith Nine

Al-Ṭusi documents:

عنه عن سعدان عن على بن يقطين قال: قلت لأبى الحسن عليه السلام: نساء أهل المدينه قال: فواسق قلت: فأتزوج منهن؟ قال: نعم. ومتى أراد الرجل تزويج المتعه فليس عليه التفتيش عنها بل يصدقها فى قولها.

From him (i.e. Muhammad b. Ahmad b. Yahya) – Sa’dan – ‘Ali b. Yaqṭin:

I said to Abu al-Hasan, peace be upon him, “The women of al-Madinah.” He said, “Unchaste.” I said, “So, can I marry from them?” He said, “Yes. And when the man intends to contract mut’ah, he does not have to do investigation about her. Rather, he should trust her in her statement.”(4)

Al-Majlisi says:

مجهول

(Majhul.(5

As such, this hadith of ‘Ali b. Yaqṭin is ḍa’if. It also contradicts the Book of Allah, and .’that makes it mawḍu

Hadith Ten

:Al-Ṭusi records

روى محمد بن أحمد بن يحيى عن على بن السندى عن عثمان بن عيسى عن إسحاق بن عمار عن فضل مولى محمد بن راشد عن أبى عبد الله عليه السلام قال: قلت

۱- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, al-Istibṣar (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۳, p. ۹۵, Ch. ۶۲, ۹ ((۳۲۵

۲- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۵, ۱۵

۳- Qur’an ۲۴:۳

۴- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۳, (Ch. ۲۴, ۱۶ (۱۰۹۱

۵- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۶, ۱۶

انی تزوجت امرأه متعه فوقع فی نفسی أن لها زوجا ففتشت عن ذلک فوجدت لها زوجا قال: ولم فتشت؟!

Muhammad b. Ahmad b. Yahya – ‘Ali b. al-Sindi – ‘Uthman b. ‘Isa – Ishaq b. ‘Ammar – Faḍl, freed slave of Muhammad b. Rashid:

I said, “I married a woman in mut’ah. But, it occurred in my mind that she had a husband. So, I investigated that and discovered that she had a husband.” Abu ‘Abd Allah, peace be upon him, said, “Why did you investigate?!”(1)

Al-Jawahiri says about one of the narrators:

علی بن السندی: روی ۸۴ روایه، وروی بعنوان علی بن السندی القمی - لم تثبت وثاقته

Ali b. al-Sindi: he narrated ۸۴ reports, and he also narrated under the name ‘Ali b. al-Sanadi al-Qummi: his trustworthiness is NOT established.(2)

This makes him majhul and ḍa’if. Al-Jawahiri also states about another narrator:

الفضل مولی محمد بن راشد :مجهول

Al-Faḍl, freed slave of Muhammad b. Rashid: Majhul.(3)

Apparently, the report has a ḍa’if chain. It also contradicts this authentic hadith of al-Kulayni:

محمـد بن یحیی، عن أحمد بن محمد، عن ابن محبوب، عن أبان، عن أبی مریم، عن أبی جعفر علیه السـلام أنه سـئل عن المتعه فقال: إن المتعه الیوم لیس کما کانت قبل الیوم إنهن کن یومئذ یؤمن والیوم لا یؤمن فاسألوا عنهن.

Muhammad b. Yahya – Ahmad b. Muhammad – Ibn Mahbub – Aban – Abu Maryam:

Abu Ja’far, peace be upon him, was asked about mut’ah. So, he said, “Verily, mut’ah today is not as it used to be in the past. They (i.e. the women) used to

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1- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۳,

(Ch. ۲۴, ۱۷ (۱۰۹۲

Muhammad al-Jawahiri, al-Mufid min Mu'jam al-Rijal al-Hadith (Qum: Manshurat - ۲
Maktabah al-Mahalati; ۲nd edition, ۱۴۲۴ H), p. ۳۹۸, ۸۱۸۳

Ibid, p. ۴۵۸, ۹۴۰۳ -۳

be faithful. But, today, they are not faithful. Therefore, investigate about them (i.e. the women).(1)

Al-Majlisi says:

موثق كالصحيح

Muwaththaq ka al-Sahih(2)

Therefore, the man must thoroughly investigate about the woman – including concerning her marital status – before contracting mut'ah with her. Besides, even during their marriage, he must still carry out fresh investigations if he has any suspicions. The Imam, 'alaihi al-salam, has not placed any time limitations on the obligation to investigate.

Hadith Eleven

Al-Ṭusi reports:

وعنه عن أيوب بن نوح عن مهران بن محمد عن بعض أصحابنا عن أبى عبد الله عليه السلام قال: قيل له ان فلانا تزوج امرأه متعه فقيل له ان لها زوجا فسألها فقال أبو عبد الله عليه السلام: ولم سألها؟

And from him (Muhammad b. Ahmad b. Yahya) – Ayyub b. Nuh – Mihran b. Muhammad – one of our companions:

It was said to Abu 'Abd Allah, peace be upon him, "So-and-so married a woman in mut'ah. Then, he was informed that she had a husband. Therefore, he asked her." So, Abu 'Abd Allah, peace be upon him, said, "And why did he ask her?"(3)

Al-Jawahiri says about one of the narrators:

مهران بن محمد: مجهول

Mihran b. Muhammad: Majhul.(4)

As such, the hadith is ḍa'if. But, it is also mursal, as our esteemed reader can see. Al-Majlisi too confirms this when he declares concerning it:

مرسل

(Mursal.(٥

.Therefore, its suffers from compounded unreliability

Hadith Twelve

:Al-Ṭusi documents

وعنه عن الهيثم بن أبى مسروق النهدى عن أحمد بن محمد بن أبى نصر ومحمد بن الحسن الأشعرى عن محمد بن عبد الله الأشعرى قال: قلت للرضا عليه السلام: الرجل يتزوج بالمرأه فيقع

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١ - Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ٥, p. ٤٥٣, ١

٢ - Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ٢٠, p. ٢٣٥

٣ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ٧, p. ٢٥٣, (Ch. ٢٤, ١٨ (١٠٩٣

٤ - Muhammad al-Jawahiri, al-Mufid min Mu'jam al-Rijal al-Hadith (Qum: Manshurat Maktabah al-Mahalati; ٢nd edition, ١٤٢٤ H), p. ٦٣٢, ١٢٩٠٣

٥ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ١٤٠٧ H), vol. ١٢, p. ٣٦, ١٨

فى قلبه أن لها زوجا قال: ما عليه أرأيت لو سألها البينه كان يجد من يشهد ان ليس لها زوج

And from him (i.e. Muhammad b. Ahmad b. Yahya) – al-Haytham b. Abi Masruq al-Hindi – Ahmad b. Muhammad b. Abi Nasr AND Muhammad b. al-Hasan al-Ash'ari – Muhammad b. 'Abd Allah al-Ash'ari:

I said to al-Riḍa, peace be upon him, "The man marries the woman. Then, it occurs in his mind that she has a husband." He said, "It is not upon him. Have you seen: if he asks her for proof, there will be someone who will testify that she has no husband?"(1)

Al-Majlisi states about the hadith:

مجهول

Majhul.(2)

Al-Jawahiri also submits about one of the narrators:

محمد بن عبد الله الأشعرى: مجهول

Muhammad b. 'Abd Allah al-Ash'ari: Majhul.(3)

Therefore, the hadith is ḍa'if.

Hadith Thirteen

Al-Ṭusi records:

محمد بن أحمد بن يحيى عن العباس بن معروف عن سعدان بن مسلم عن رجل عن أبى عبد الله عليه السلام قال: لا بأس بتزويج البكر إذا رضيت من غير اذن أبويها.

Muhammad b. Ahmad b. Yahya – al-'Abbas b. Ma'ruf – Sa'dan b. Muslim – a man – Abu 'Abd Allah, peace be upon him:

There is no problem in marrying the virgin when she consents, without the consent of her parents.(4)

Al-Majlisi declares:

مجهول مرسل

(Majhul Mursal.[5]

:Thus, it is very weak. It equally contradicts this authentic hadith of the same al-Ṭusi

فاما رواه أحمد بن محمد عن محمد بن إسماعيل عن أبی الحسن ظريف عن ابان عن أبی مريم عن أبی عبد الله عليه السلام قال: العذراء التی لها أب لا تتزوج متعه إلا باذن

p: ۱۵۱

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۱ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, pp. ۲۵۳-۲۵۴, Ch. ۲۴, ۱۹ (۱۰۹۴)

۲ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۷, ۱۹

۳ - Muhammad al-Jawahiri, al-Mufid min Mu'jam al-Rijal al-Hadith (Qum: Manshurat Maktabah al-Mahalati; ۲nd edition, ۱۴۲۴ H), p. ۵۴۳, ۱۱۰۷۷

۴ - Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۴, Ch.۲۴, ۲۰ (۱۰۹۵)

۵ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۷, ۲۰

أبيها.

Ahmad b. Muhammad – Muhammad b. Isma’il – Abu al-Hasan Zarif – Aban – Abu Maryam – Abu ‘Abd Allah, peace be upon him:

The virgin who has a father cannot be married in mut’ah except with the permission of her father.(1)

Al-Majlisi comments:

موثق كالصحيح

Muwaththaq ka al-Sahih(2)

Al-Ruhani also states:

صحيح

Sahih(3)

That then delivers the fatal blow to it.

Hadith Fourteen

Al-Ṭusi says:

وعنه عن موسى بن عمر بن يزيد عن محمد بن سنان عن أبى سعيد القماط عمن رواه قال: قلت لأبى عبد الله عليه السلام: جاريه بكر بين أبويها تدعونى إلى نفسها سرا من أبويها أفأفعل ذلك؟ قال: نعم واتق موضع الفرج قال: قلت فان رضيت بذلك؟ قال: وان رضيت بذلك فإنه عار على الابكار.

And from him from Musa b. ‘Umar b. Yazid – Muhammad b. Sinan – Abu Sa’id al-Qimaṭ – from the one who narrated it:

I said to Abu ‘Abd Allah, peace be upon him: “A virgin girl who is still with her parents invites me to herself secretly without the knowledge of her parents. Should I do that?” He said, “Yes, and avoid the place of the vulva.” I said, “So, if she consents to that?” He said, “Even if she consents to that, for it is a shame upon the virgins.”(4)

:Al-Majlisi comments

ضعيف على المشهور

(Ḍa’if ‘ala al-Mashhur.(5)

:Al-Jawahiri too states about one of the narrators

موسى بن عمر بن يزيد بن ذبيان: الصيقل – مجهول

(Musa b. ‘Umar b. Yazid Dhibyan al-Sayqal: Majhul.(6)

:And, about another narrator, Shaykh al-Najashi (d. 450 H) submits

محمد بن سنان ... هو رجل ضعيف جدا لا يعول عليه ولا يلتفت إلى ما تفرد

p: 152

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1 - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. 7, p. 254-255, Ch. 24, 24 (1099)

2 - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; 1407 H), vol. 12, p. 39, 24

3 - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; 3rd edition, 1414 H), vol. 21, p. 155

4 - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. 7, p. 254, Ch. 24, 21 (1096)

5 - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; 1407 H), vol. 12, p. 38, 21

6 - Muhammad al-Jawahiri, al-Mufid min Mu’jam al-Rijal al-Hadith (Qum: Manshurat Maktabah al-Mahalati; 2nd edition, 1424 H), p. 628, 12817

به

Muhammad b. Sinan … he is a man who is ḍa'if jiddan (very weak). He is not relied upon, and no attention is paid to whatever he narrated without corroboration.(1)

As such, the hadith is ḍa'if jiddan. Worse still, it is equally mursal, as its main narrator is unknown.

With that same ḍa'if jiddan chain, al-Tusi proceeds with this further riwayah:

وبهذا الاسناد عن أبى سعيد قال: سئل أبو عبد الله عليه السلام عن التمتع من الابكار اللواتى بين الأبوين فقال: لا بأس ولا أقول كما يقول هؤلاء الأقشاب

And with this chain from Abu Sa'id:

Abu 'Abd Allah, peace be upon him, was asked about mut'ah with virgins who are still with their parents. So, he said, "There is no problem (with it), and I do not say as these scoundrels say."(2)

Al-Majlisi says:

ضعيف

Ḍa'if.(3)

We already know of the severe weakness of the sanad, anyway.

Then, al-Ṭusi proceeds to narrate one more hadith through that same chain:

أبو سعيد عن الحلبى قال: سألته عن التمتع من البكر إذا كانت بين أبويها بلا اذن أبويها قال: لا بأس ما لم يقتض ما هناك لتعف بذلک.

Abu Sa'id from al-Halabi:

I asked him about mut'ah with the virgin who is still with her parents without the consent of her parents. He said, "There is no problem as long as one does not consummate what is there, so that she could be chaste by that."(4)

:Al-Majlisi declares

ضعیف علی المشهور

(Ḍa’if ‘ala al-Mashhur.(۵

And it is actually ḍa’if jiddan due to Muhammad b. Sinan. Of course, it equally contradicts the sahih hadith of Abu Maryam, quoted above

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۱- Abu al-‘Abbas Ahmad b. ‘Ali b. Ahmad b. al-‘Abbas al-Najashi al-Asadi al-Kufi, Fihrist Asma Muṣannafay al-Shi’ah (Qum: Muasassat al-Nashr al-Islami; ۵th edition, ۱۴۱۶ H) [annotator: Sayyid Musa al-Shubayri al-Zanjani], p. ۳۲۸, ۸۸۸

۲- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۴, (Ch. ۲۴, ۲۲ (۱۰۹۷

۳- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۹, ۲۲

۴- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۵۴, (Ch. ۲۴, ۲۳ (۱۰۹۸

۵- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۳۹, ۲۳

.a fact that makes its case even more hopeless –

Hadith Fifteen

:Al-Tusi records

الحسن بن محبوب عن إسحاق بن جرير قال: قلت لأبی عبد الله علیه السلام ان عندنا بالكوفه امرأه معروفه بالفجور أیحل ان أتزوجها متعه؟ قال فقال :رفعت رایه؟ قلت: لا لو رفعت رایه اخذها السلطان قال فقال: نعم تزوجها متعه قال: ثم إنه اصغی إلی بعض موالیه فاسر إلیه شیئا، قال: فدخل قلبی من ذلک شیء قال: فلقیت مولاه فقلت له: ای شیء قال لک أبو عبد الله علیه السلام؟ قال: فقال لی: لیس هو شیء تكرهه فقلت: فأخبرنی به قال فقال: إنما قال لی: ولو رفعت رایه ما كان علیه فی تزویجها شیء إنما یخرجها من حرام إلی حلال.

:Al-Hasan b. Mahbub – Ishaq b. Jarir

I said to Abu ‘Abd Allah, peace be upon him, “With us in Kufah, there is a woman who is famous for prostitution. Is it halal to marry her in mut’ah?” He said, “Did she raise a flag (i.e. openly practises prostitution)?” I said, “No. If she raised a flag, the ruler would arrest her.” So, he said, “Yes. Marry her in mut’ah.” Then, he listened to one of his slaves and confided something to him. As a result, something entered my heart concerning that. Therefore, I met his slave and said to him, “What did Abu ‘Abd Allah, peace be upon him, say to you?” So, he said to me, “It is not something you dislike.” :Then I said, “In that case, inform me of it.” Then he said, “He only said to me

even if she raised a flag, there would not be anything against his marriage of her. He only takes her out of a haram to a halal.”(1)

Al-Majlisi says:

موثق

Muwaththaq.(2)

Al-Ruhani agrees:

موثق

Muwaththaq.(3)

The last part of the hadith is mursal and therefore ḍa’if, as it is narrated to Ishaq by an unnamed, unknown slave. As for the first part, it is muwaththaq.

A muwaththaq hadith is only conditionally authentic, and is inferior to a sahih hadith. This is why, in the case of a conflict between a muwaththaq hadith and a sahih hadith, the former becomes shadh and ḍa’if. Meanwhile, al-Ṭusi himself gives some further information on the muwaththaq hadith:

وأما العداله المراعاه فى ترجيح أحد الخبرين على الاخر فهو: أن يكون الراوى معتقدا للحق، مستبصرا ثقه فى دينه، متحرجا من الكذب غير متهم فيما يرويه.

فأما إذا كان مخالفا فى الاعتقاد لأصل المذهب وروى مع ذلك عن الأئمه عليهم السلام نظر فيما يرويه. فان كان هناك من طرق الموثوق بهم ما يخالفه وجب اطراح خبره. وان لم يكن هناك ما يوجب اطراح خبره ويكون هناك ما يوافقه وجب العمل به.

وان لم يكن من الفرقه المحقه خبر يوافق ذلك ولا يخالفه، ولا يعرف لهم قول فيه، وجب أيضا العمل به

As for the ‘adalah that is required in the preference of one of two reports over another, it is: that the narrator should have the true ‘aqidah, enlightened, trustworthy in his religion, who avoids telling lies, not accused in what he narrates.

But, if he deviates in ‘aqidah from the root of the (Shi’i) sect, and narrates nonetheless

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۱ - Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۴۸۵, (Ch. ۴۱, ۱۵۷ (۱۹۴۹

۲ - Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar’ashi; ۱۴۰۷ H), vol. ۱۲, p. ۵۰۷, ۱۵۵

۳ - Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۳۲۰

from the Imams, peace be upon them, what he narrates is looked at. If there is what contradicts it from the routes of trusted narrators, it becomes obligatory to throw away his report. However, if there is nothing that necessitates throwing away his .report, and there is what agrees with it, it becomes obligatory to follow it

Meanwhile, if there is no report from the saved sect (i.e. Shi'is) which agrees with that, and no report which contradicts it, and no opinion is known from them concerning it, it (is equally obligatory to follow it.(۱

In other words, a muwaththaq hadith – which is what a non-Imami Muslim narrates from the Ahl al-Bayt – is authentic only if there is nothing sahih that contradicts it. Al-:Ṭusi also adds

وان كـان مـا رووه ليس هنـاك مـا يخـالفه ولا يعرف من الطائفه العمل بخلافه، وجب أيضا العمل به إذا كان متحرجا فى روايته موثوقا فى أمانته، وان كان مخطئا فى أصل الاعتقاد.

And if there is nothing that contradicts what he narrated, and the ṭaifah (i.e. Shi'is) are not known to have acted contrary to it, it is obligatory to follow it as well, if he is restrained (from telling lies) in his report, trustworthy in his honesty, even if he (deviates in the root of 'aqidah.(۲

So, what saves a muwaththaq hadith is the complete absence of any sahih Shi'i hadith that contradicts it. If there is, the muwaththaq hadith becomes matruk (rejected) and .thrown away

With that in mind, we ask: is there any sahih Shi'i

p: ۱۵۶

Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, al-'Uddah fi Uṣul al-Fiqh (Qum: - ۱ Muasassat al-Ba'thah; ۱st edition, ۱۴۱۷ H) [annotator: Muhammad Riḍa al-Anṣari al-Qummi], vol. ۱, pp. ۱۴۸-۱۴۹

Ibid, vol. ۱, p. ۱۵۰ -۲

?hadith which contradicts the muwaththaq hadith of Ishaq b. Jarir above

:First, it directly opposes this ayah of Allah

الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made (HARAM for the believers.(۱)

This explicitly forbids marriage with fornicators and fornicatresses. The instruction is also general, and the Ahl al-Bayt have applied the verse to both permanent marriage .and mut'ah

:It also contradicts this ayah

اليوم أحل لكم الطيبات وطعام الذين أوتوا الكتاب حل لكم وطعامكم حل لهم والمحصنات من المؤمنات والمحصنات من الذين أوتوا الكتاب من قبلكم إذا آتيتموهن أجورهن محصنين غير مسافحين ولا متخذى أخدان

Today, the good things are made halal to you; and the food of those who were given the Book is halal for you, and your food is halal for them; and also (halal to you are) the CHASTE ONES from the believing women and the CHASTE ONES from those who were given the Book before you, when you have given them their dowries, taking ((them) in marriage, not fornicating (with them), nor taking them as girlfriends.(۲)

Only chaste Muslim and Kitabi women are halal for marriage. All others are therefore haram. Of course, there is absolutely no doubt that fornicatresses and prostitutes are NOT chaste women. As such, mut'ah with any unchaste woman – in particular, with a fornicatress or prostitute – is

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۱- Qur'an ۲۴:۳

۲- Qur'an ۵:۵

.haram in Islam, according to the Book of our Lord

:The third ayah which the muwaththaq hadith of Ishaq b. Jarir contradicts is this

ومن لم يستطع منكم طولا ـ أن ينكح المحصنات المؤمنات فمن ما ملكت أيمانكم من فتياتكم المؤمنات والله أعلم بإيمانكم بعضكم من بعض فانكحوهن بإذن أهلهن وآتوهن أجورهن بالمعروف محصنات غير مسافحات ولا متخذات أخدان

And whoever of you is not able to afford to marry free believing women, let him marry from the believing girls from among those whom your right hands possess, and Allah has full knowledge about your faith. You are one from another. Marry them with the consent of their masters and give them their dowries justly: they being CHASTE, not (fornicating, nor taking boyfriends.(١

So, even a slave girl must be chaste before she can qualify for marriage – whether permanently or in mut'ah. Alhamdulillah, there are hardly any slaves in the world today. Meanwhile, the significance of this verse to our research is in the fact that Allah generally sets lower standards for slaves and higher for free believers(٢). Since chastity is strictly required from slave girls before they can qualify for nikah, then the standard is even higher for free Muslimahs! Apparently, the average Muslim woman .must indeed be very chaste in order to be suitable for mut'ah

Thus, what happens to the muwaththaq hadith of Ishaq b. Jarir which opposes these :verses? Al-Khui has a clear answer for this

وقد دلت الأخبار المتواتره على وجوب عرض الروايات على الكتاب والسنه وأن ما خالف

p: ١٥٨

١- Qur'an ۴:۲۵

٢- See for instance Qur'an ۴:۲۵, ۲:۱۷۸ and ۱۶:۷۵.

الكتاب منها يجب طرحه، وضربه على الجدار.

The mutawatir reports have proved that it is obligatory to compare reports with the Book and the Sunnah, and that whatsoever contradicts the Book from them must be thrown away and discarded.(١)

Shaykh al-Saduq (d. ٣٨١ H) too declares:

وكل حديث لا يوافق كتاب الله فهو باطل

Every hadith that does not agree with the Book of Allah is a fabrication.(٢)

Therefore, the hadith of Ishaq b. Jarir is mawḍu', a fabrication.

Then, al-Saduq has this hadith too:

روى داود بن سرحان، عن زراره عن أبى عبد الله عليه السلام قال: سألته عن قول الله عز وجل: الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك " قال: هن نساء مشهورات بالزنا، ورجال مشهورون بالزنا، شهروا بالزنا وعرفوا به، والناس اليوم بتلك المنزله من أقيم عليه حد الزنا أو شهر بالزنا لم ينبغ لاحد أن يناكحه حتى يعرف منه توبه

Dawud b. Sarhan – Zurarah:

I asked Abu 'Abd Allah, peace be upon him, about the Statement of Allah, the Almighty {The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater}. He said, "They are women who are famous for zina, and men who are famous for zina. They became famous for zina and became known with it; and the people today are of that status. Whoever is judicially punished for zina or is famous for it, it is NOT appropriate for anyone to marry them until repentance is known from them."(٣)

١- Abu al-Qasim al-Musawi al-Khui, al-Bayan fi Tafsir al-Qur'an (Beirut: Dar al-Zahra li al-Ṭaba'ah wa al-Nashr wa al-Tawzi'; ٤th edition, ١٣٩٥ H), p. ٢٣١

٢- Abu Ja'far Muhammad b. 'Ali b. Husayn b. Babuyah al-Qummi, al-I'tiqadat (Dar al-Mufid; ٢nd edition, ١٤١٤ H) [annotator: 'Iṣam 'Abd al-Sayyid], Ch. ١, p. ٢٢

۳- Abu Ja’far Muhammad b. ‘Ali b. al-Husayn b. Babuyah al-Qummi, Man La Yahduruh al-Faqih (Qum: Manshurat Jama’ah al-Mudarisin fi al-Hawzah al-‘Ilmiyyah; ۲nd edition, ۱۴۰۴ H) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۳, pp. ۴۰۵-۴۰۶, ۴۴۱۷

:The annotator, Prof. ‘Ali Akbar al-Ghiffari, comments

الطريق صحيح

(The chain is sahih.(١

:Al-Ruhani agrees with him

صحيح

(Sahih.(٢

:Al-Ṭusi also reports this

أحمـد بن محمـد بن عيسـى عن أبى المعزا عن الحلبى قـال قال: أبو عبـد الله عليه السـلام لا تتزوج المرأه المعلنه بالزنا ولا تزوج الرجل المعلن بالزنا إلا أن يعرف منهما التوبه.

Ahmad b. Muhammad b. ‘Isa – Abu al-Mua’za – al-Halabi – Abu ‘Abd Allah, peace be :upon him

Do NOT marry the woman who overtly commits zina, and do NOT marry the man“ (who overtly commits zina, EXCEPT when repentance is known from them both.”(٣

:Al-Ruhani comments

صحيح

(Sahih.(۴

:Al-Kulayni is not left out either

على بن إبراهيم، عن محمـد بن عيسـى، عن يونس، عن محمد بن الفضـيل قال:سألت أبا الحسن عليه السـلام عن المرأه الحسـناء الفاجره هل يجوز للرجل أن يتمتع منها يوما أو أكثر؟ فقال: إذا كانت مشهوره بالزنا فلا يتمتع منها ولا ينكحها.

:Ali b. Ibrahim – Muhammad b. ‘Isa – Yunus – Muhammad b. al-Fuḍayl‘

I asked Abu al-Hasan, peace be upon him, about the beautiful woman who is a prostitute: is it permissible for the man to do mut’ah with her for a day or more?” He

said: “If she is famous for zina, then he must NOT do mut’ah with her and also must (NOT marry her (permanently).”(۵)

:Al-Majlisi comments

موثق

(Muwaththaq (Reliable)(۶)

:Al-Ruhani says

صحيح

(Sahih.(۷)

:Then, al-Kulayni reports this too

حميد بن زياد، عن الحسن بن محمد بن سماعه، عن أحمد بن الحسن الميثمى، عن أبان، عن حكم بن حكيم، عن أبى عبد الله عليه السلام فى قوله عز وجل: والزانيه لا ينكحها إلا زان أو مشرك قال: إنما ذلك فى

p: ۱۶۰

۱- Ibid, vol. ۳, p. ۴۰۶, ۴۴۱۷, footnote ۱

۲- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۳۱۹

۳- Abu Ja’far Muhammad b. al-Hasan al-Ṭusi, al-Istibṣar (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۳, p. ۱۶۸, Ch. ۱۰۹, ۱ ((۶۱۳

۴- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۱, p. ۳۱۹

۵- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ۵, p. ۴۵۴, ۶

۶- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۲۳۷

۷- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-

Kitab; ٣rd edition, ١٤١٤ H), vol. ٢١, p. ٣٢٠

الجهر ثم قال: لو أن إنسانا زنى ثم تاب تزوج حيث شاء.

Humayd b. Ziyad – al-Hasan b. Muhammad b. Sama’ah – Ahmad b. al-Hasan al-Maythami – Aban – Hakam b. Hakim – Abu ‘Abd Allah, peace be upon him, concerning His Statement, the Almighty {and the fornicatress, none shall marry her but a fornicator or an idolater}:

“That is only in the publicity (of the fornication)”. Then, he (Abu ‘Abd Allah) said, “If a person commits zina, and then repents, they can marry wherever they wish (in the halal categories).”(١)

Al-Majlisi comments:

موثق

Muwaththaq.(٢)

And, of course, we must not forget this hadith of al-Ṭusi:

أحمد بن محمد بن عيسى عن محمد بن إسماعيل بن بزيع قال: سأل رجل الرضا عليه السلام وانا اسمع عن الرجل يتزوج المرأه متعه ويشترط عليها ان لا يطلب ولدها فتأتى بعد ذلك بولد فينكر الولد فشدد فى ذلك وقال يجحد؟ وكيف يجحد اعظاما لذلك؟ قال الرجل فان اتهمها قال: لا ينبغى لك ان تتزوج إلا مأمونه ان الله يقول: الزانى لا ينكح إلا زانيه أو مشركه والزانيه لا ينكحها إلا زان أو مشرك وحرم ذلك على المؤمنين

Ahmad b. Muhammad b. ‘Isa – Muhammad b. Isma’il b. Bazi’:

A man asked al-Riḍa, peace be upon him, while I was listening, about the man who marries the woman in mut’ah and he imposes a condition upon her that he will not seek her child. But, she later comes with a child and he severely denies the child. So, he (al-Riḍa) said, “Does he deny? How can he deny primarily because of that?” Then,

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١- Abu Ja’far Muhammad b. Ya’qub b. Ishaq al-Kulayni al-Razi, al-Furu’ min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: ‘Ali Akbar al-Ghiffari], vol. ٥, p. ٣٥٥, ٦

٢- Muhammad Baqir al-Majlisi, Mir-at al-‘Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar

al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۶۲

the man said, “What if he accuses her (of fornication)?” He (al-Riḍa) said, “It is not appropriate for you to marry except a faithful woman. Verily, Allah the Almighty says: {The fornicator shall not marry any but a fornicatress or an idolatress; and the fornicatress, none shall marry her but a fornicator or an idolater: and that is made haram for the believers}.(1)

Al-Majlisi states:

صحيح

Sahih.(2)

Al-Ruhani concurs:

صحيح

Sahih.(3)

Meanwhile, al-Kulayni still has more:

على بن إبراهيم، عن أبيه، عن حماد بن عيسى، عن حريز بن عبد الله، عن محمد ابن مسلم، عن أبى جعفر عليه السلام قال: سألته عن الخبيثه أتزوجها؟ قال: لا.

Ali b. Ibrahim – his father – Hammad b. ‘Isa – Hariz b. ‘Abd Allah – Muhammad b. Muslim:

I asked Abu Ja’far, peace be upon him, about the fornicatress, “Can I marry her?” He said, “No.”(4)

Al-Majlisi declares:

حسن

Hasan.(5)

Let us then cap everything with this additional hadith of al-Kulayni:

محمد بن يحيى، عن أحمد بن محمد، عن على بن الحكم، عن العلاء بن رزين، عن محمد بن مسلم قال: سألت أبا جعفر عليه

السلام عن الخبيثه يتزوجها الرجل، قال: لا، وقال: إن كان له أمه وطئها ولا يتخذها أم ولده.

Muhammad b. Yahya – Ahmad b. Muhammad – 'Ali b. al-Hakam – al-'Ala b. Zarin – :Muhammad b. Muslim

I asked Abu Ja'far about the fornicatress, "Can the man marry her?" He said, "No." And he (further) said, "If he has a slave woman, he should have intercourse with her (instead), and he should not take her as the mother of his child."(۶)

:And, al-Majlisi states

صحيح

Sahih.(۷)

The bottom-line of all

p: ۱۶۲

۱- Abu Ja'far Muhammad b. al-Hasan al-Ṭusi, Tahdhib al-Ahkam (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Hasan al-Musawi al-Khurasan], vol. ۷, p. ۲۶۹, (Ch. ۲۴, ۸۲ (۱۱۵۷

۲- Muhammad Baqir al-Majlisi, Maladh al-Akhyar fi Fahm Tahdhib al-Akhbar (Qum: Maktabah Ayatullah al-Mar'ashi; ۱۴۰۷ H), vol. ۱۲, p. ۶۹, ۸۱

۳- Muhammad Ṣadiq al-Husayni al-Ruhani, Fiqh al-Ṣadiq (Qum: Muasassat Dar al-Kitab; ۳rd edition, ۱۴۱۴ H), vol. ۲۲, p. ۴۳

۴- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۳۵۳, ۱

۵- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۵۶

۶- Abu Ja'far Muhammad b. Ya'qub b. Ishaq al-Kulayni al-Razi, al-Furu' min al-Kafi (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: 'Ali Akbar al-Ghiffari], vol. ۵, p. ۳۵۳, ۴

۷- Muhammad Baqir al-Majlisi, Mir-at al-'Uqul fi Sharh Akhbar Al al-Rasul (Tehran: Dar al-Kutub al-Islamiyyah) [annotator: Sayyid Muhsin al-Husayni al-Amini], vol. ۲۰, p. ۵۷

this is that the hadith of Ishaq b. Jarir fails the full conditions of authenticity. It contradicts the Book of Allah as well as several sahih, muwaththaq and hasan ahadith. .As a result, it is mawḍu’¸ thrown out and discarded

Hadith Sixteen

:Shaykh al-Mufid (d. ۴۱۳ H) records

وعن الحسن بن جرير قال: سألت أبا عبد الله عليه السلام فی المرأه تزنی عليها أيتمتع بها؟ قال: أرأيت ذلك؟ قلت: لا، ولكنها ترمی به قال: نعم يتمتع بها علی أنك تغادر وتغلق بابك.

:Narrated al-Hasan b. Jarir

I asked Abu ‘Abd Allah, peace be upon him, about the woman upon whom zina is committed. Can I do mut’ah with her?" He said, "Did you see that?" I said, "No. But, she is accused of it." He said, "Yes. Do mut’ah with her, upon (the condition) that you leave (and lock your door."(۱)

This one is mursal and therefore ḍa’if, as it has no chain of narration. Moreover, its only narrator, al-Hasan b. Jarir, is muhmal (untraceable). Therefore, the hadith is very .weak

Hadith Seventeen

:Al-Himyari (d. ۳۰۰ H), in the book attributed to him, has this hadith

قال علی بن رئاب: سألت أبا عبد الله عليه السلام عن المرأه الفاجره يتزوجها الرجل المسلم؟ قال :نعم، وما يمنعه؟ إذا فعل فليحصن بابه مخافه الولد

:Ali b. Riab said‘

I asked Abu ‘Abd Allah, peace be upon him, concerning with the prostitute: "Does the Muslim man marry her?" He said, "Yes. And what prevents him? If he does, he must (fortify his door, for fear of the child."(۲)

Ayatullah al-Muhsini declares it ḍa’if.(۳) In particular, it is

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۱ - Abu ‘Abd Allah Muhammad b. Muhammad b. al-Nu’man al-Ukbari al-Baghdadi, Risalah al-Mut’ah (Beirut: Dar al-Mufid li al-Ṭaba’ah wa al-Nashr wa al-Tawzi’; ۲nd edition, ۱۴۱۴ H), p. ۱۲, ۲۹

۲- - Abu al-‘Abbas ‘Abd Allah b. Ja’far al-Himyari, Qurb al-Isnad (Qum: Muasassat Al al-Bayt ‘Alaihim al-Salam li Ihya al-Turath; ۱st edition, ۱۴۱۳ H), p. ۱۶۶, ۶۰۹

۳- Muhammad Aṣif al-Muhsini, Mashra’ah Bihar al-Anwar (Beirut: Muasassat al-‘Arif li al-Maṭbu’at; ۲nd edition, ۱۴۲۶ H), vol. ۲, p. ۴۸۷

from Qurb al-Isnad, a ḍa’if book(١), which has not reached us through any reliable .means; and there is also dispute over its exact authorship

Moreover, the hadith is not about mut’ah specifically. Rather, it addresses marriage generally. Meanwhile, despite that it is intrinsically ḍa’if, it nonetheless also contradicts sahih and muwaththaq reports. This significantly worsens its unreliability. .’Most importantly, it opposes the Book of Allah, and that makes it mawḍu

Sunni Athar Misused About Mut’ah .٨

point

There are a few reports in the Sunni books, which some from the Ahl al-Sunnah quote to “prove” that certain Sahabah and Tabi’in later abandoned their positive views of mut’ah. Generally, the views of the Sahabah and others are of zero value in .determining the morality and permissibility of anything in Islam

What matters to a Muslim is only what his Lord says. Of course, Allah has revealed the Verse of al-Mut’ah in His Book, and that ayah is still unabrogated till this very moment. With this fact, nothing else matters to us. Yet, we will look at the reports about the alleged reversal of certain Sahabah and Tabi’in on mut’ah. This is primarily to ensure .that history is not distorted

Athar One

:Imam Abu ‘Awanah (d. ٣١۶ H) records

قال يونس قال ابن شهاب وسمعت الربيع بن سبره يحدث عمر بن عبد العزيز، [وأنا جالس] أنه قال :ما مات ابن عباس حتى رجع عن هذا الفتيا

:Yusuf – Ibn Shihab

I heard al-Rabi’ b. Sabrah narrating to ‘Umar b. ‘Abd al-‘Aziz [while I was sitting]. He said: “Ibn ‘Abbas did not die until he had

See Muhammad Aṣif al-Muhsini, Buhuth fi ‘Ilm al-Rijal (Markaz al-Muṣtafa al-‘Alami -١ li Tarjamah wa al-Nashr), pp. ۴۲۷-۴۲۸, ۶; Muhammad Aṣif al-Muhsini, Mashra’ah Bihar al-Anwar (Beirut: Muasassat al-‘Arif li al-Maṭbu’at; ۲nd edition, ۱۴۲۶ H), vol. ۱, p. ۱۴ and ۴۰۵

(withdrawn from this fatwa."(1)

This report is munqati' (disconnected), and therefore ḍa'if. Al-Rabi' did not hear from Ibn 'Abbas, even though they were contemporaries; and he did not give the source of his information either.

No wonder, 'Allamah al-Albani (d. ١٤٢٠ H) declares:

وجمله القول: أن ابن عباس رضى الله عنه روى عنه فى المتعه ثلاثه أقوال:

الأول: الإباحه مطلقا.

الثانى: الإباحه عند الضروره.

والآخر: التحريم مطلقا , وهذا مما لم يثبت عنه صراحه , بخلاف القولين الأولين , فهما ثابتان عنه.

The summary is: three opinions are narrated from Ibn 'Abbas, may Allaah be pleased with him, about mut'ah:

The one: he permitted it unconditionally.

The second: he permitted it in cases of necessity.

The last: he forbade it unconditionally, but this is from what is NOT authentically transmitted from him, unlike the first two opinions which are authentically transmitted from him.(2)

Al-Hafiẓ too is not left out:

وأما ابن عباس فروى عنه أنه أباحها وروى عنه أنه رجع عن ذلك قال ابن بطال روى أهل مكه واليمن عن ابن عباس إباحه المتعه وروى عنه الرجوع بأسانيد ضعيفه وإجازه المتعه عنه أصح وهو مذهب الشيعه

As for Ibn 'Abbas, it is narrated concerning him that he permitted it, and it is also narrated concerning him that he withdrew from that. Ibn Baṭṭal said: The people of Makkah and Yemen narrated that Ibn 'Abbas permitted mut'ah, and it is (also) narrated concerning him with ḍa'if chains that he withdrew. That he permitted mut'ah (till death) is more authentically transmitted, and it is the madhhab of the Shi'ah.(3)

Ibn ‘Abbas apparently permitted mut’ah till his

۱- Abu ‘Awanah Ya’qub b. Ishaq al-Asfarani, Musnad Abi Awanah (Beirut: Dar al-Ma’rifah; ۱st edition, ۱۴۱۹ H) [annotator: Ayman b. ‘Arif al-Dimashqi], vol. ۳, p. ۲۳

۲- Muhammad Naṣir al-Din al-Albani, Irwa al-Ghalil fi Takhrij Ahadith Manar al-Sabil (Beirut: al-Maktab al-Islami; ۲nd edition, ۱۴۰۵ H), vol. ۶, p. ۳۱۹, ۱۹۰۳

۳- Shihab al-Din Ibn Hajar al-‘Asqalani, Fath al-Bari Sharh Ṣahih al-Bukhari (Beirut: Dar al-Ma’rifah li al-Ṭaba’ah wa al-Nashr; ۲nd edition), vol. ۹, p. ۱۵۰

.last breath on the earth

Athar Two

:Imam al-Jasas (d. ٣٧٠ H) submits

ومما يـدل على رجوعه عن إباحتها ما روى عبـد الله بن وهب قال: أخبرنى عمرو بن الحارث أن بكير بن الأشـج حـدثه: أن أبا إسحاق مولى بنى هـاشم حـدثه: أن رجلاً سأل ابن عباس فقال: كنت فى سـفر ومعى جاريه لى ولى أصـحاب فأحللت جاريتى لأصحابى يستمتعون منها؟ فقال: ذاك السفاح، فهذا أيضا يدل على رجوعه.

From what proves his withdrawal from its permissibility is what ‘Abd Allah b. Wahb narrated: ‘Amr b. al-Harith – Bukayr b. al-Ashja – Abu Ishaq, freed slave of Banu :Hashim

A man asked Ibn ‘Abbas, and said, “I am on a journey, and there is with me a slave-girl belonging to me, and I have companions. So, do I make my slave-girl available to ”.my companions so that they do mut’ah with her?” He said, “That is fornication

(And this too proves his withdrawal.(١

Al-Jasas’ conclusion from this athar reveals his deep ignorance about mut’ah. Temporary marriage can be done only with a single man at a time; and after its conclusion, if there was intercourse, the woman observes her obligatory ‘iddah period. What Abu Ishaq was asking about was more like sex slavery or an orgy: the slave girl would be available to his companions generally, and whichever of them wanted sex would just go to her anytime he wanted. What then about the compulsion ?of ‘iddah which the woman must fulfil after each mut’ah

Anyway, the riwayah is ḍa’if. This is what al-Hafiẓ (d. ٨٥٢ H) states about

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١ - Abu Bakr Ahmad b. ‘Ali al-Razi al-Jasas, Ahkam al-Qur’an (Beirut: Dar al-Kutub al-‘Ilmiyyah; ١st edition, ١۴١۵ H) [annotator: ‘Abd al-Salam Muhammad ‘Ali Shahin], vol. ٢, p. ١٨۶

:its main narrator

أبو إسحاق الدوسى مولى بنى هاشم مقبول

(Abu Ishaq al-Dawsi, freed slave of Banu Hashim: Maqbul.(١

:Uncorroborated reports of maqbul narrators are ḍa'if; as al-Hafiẓ confirms

" مقبول " حيث يتابع، وإلا فلين الحديث

Maqbul (accepted) where he is seconded (i.e. from the same Shaykh). Otherwise, he is (weak in hadith.(٢

.Of course, this one by Abu Ishaq has no corroboration. As such, it is ḍa'if

Athar Three

:Imam 'Abd al-Razzaq (d. ٢١١ H) documents

عبد الرزاق عن ابن عيينه عن إسـماعيل عن قيس] عن عبد الله بن مسـعود [قال: كنا نغزو مع رسول الله صلى الله عليه وسلم فتطول عزبتنا فقلنا: ألا نختصى يا رسول الله فنهانا، ثم رخص أن نتزوج المرأه إلى أجل بالشئ، ثم نهانا عنها يوم خيبر، وعن لحوم الحمر الانسيه

:[Abd al-Razzaq – Ibn 'Uyaynah – Isma'il – Qays – ['Abd Allah b. Mas'ud'

We were on an expedition with the Messenger of Allah, peace be upon him, and our celibacy had been prolonged. So, we said, "Should we castrate ourselves?" But, he forbade us. Then, he permitted that we should do nikah (marriage) with the woman for a specified period with something. Then, he forbade us from it on the Day of (Khaybar and from the flesh of domestic asses.(٣

However, this same hadith has been recorded by al-Bukhari (d. ٢٥٦ H) with significant :differences

حدثنا قتيبه بن سـعيد حدثنا جرير عن إسـماعيل عن قيس قال : قال عبد الله كنا نغزو مع رسول الله صلى الله عليه و سلم وليس لنا شيء فقلنا ألا نستخصى ؟ فنهانا عن ذلك ثم رخصلنا أن ننكح المرأه

۱ - Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah al-‘Ilmiyyah; ۲nd edition, ۱۴۱۵ H) [annotator: Muṣṭafa ‘Abd al-Qadir ‘Aṭa], vol. ۲, p. ۳۵۵, ۷۹۶۵

۲ - Ibid, vol. ۱, p. ۲۴

۳ - Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al-Rahman al-A’ẓami], vol. ۷, p. ۵۰۶, ۱۴۰۴۸

بالثوب ثم قرأ علينا } يا أيها الذين أمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا أن الله لا يحب المعتدين {

:(Qutaybah b. Sa'id – Jarir – Isma'il – Qays – 'Abd Allah (b. Mas'ud

We were on an expedition with the Messenger of Allah, peace be upon him, and we had nothing with us. So, we said, "Should we castrate ourselves?" But, he forbade us to do that. Then, he permitted us to do nikah (marriage) with the woman, giving her a garment (as the dowry). Then, he recited to us {O you who believe! Do not make haram the good things which Allah has made halal for you; and do not exceed the (limits; surely Allah does not love those who exceed the limits}.(١

This version which Jarir transmitted from the same Isma'il mentions no prohibition of mut'ah at Khaybar. Moreover, in it, Ibn Mas'ud quoted Qur'an ٥:٨٧ to Qays to defend its permissibility. This apparently took place after the death of the Messenger of Allah, .sallallahu 'alaihi wa alihi

This is also what yet another narrator transmitted from Isma'il. Imam Ahmad (d. ٢٤١ :H) records

حدثنا عبد الله حدثنى أبى ثنا وكيع عن بن أبى خالد عن قيس عن عبد الله قال كنا مع النبى صلى الله عليه و سلم ونحن شباب فقلنا يا رسول الله ألا نستخصى فنهانا ثم رخص لنا فى ان ننكح المرأه بالثوب إلى الأجل ثم قرأ عبد الله { لا تحرموا طيبات ما أحل الله لكم }

Abd Allah (b. Ahmad) – my father (Ahmad'

١- Abu 'Abd Allah Muhammad b. Isma'il b. Ibrahim b. Mughirah al-Bukhari al-Ju'fi, al-Jami' al-Ṣahih al-Mukhtaṣar (Beirut: Dar Ibn Kathir; ٣rd edition, ١٤٠٧ H) [annotator: Dr. Muṣṭafa Dib al-Bagha], vol. ٥, p. ١٩٥٣, ٤٧٨٧

:b. Hanbal) – Waki’ – (Isma’il) Ibn Abi Khalid – Qays – ‘Abd Allah

We were with the Prophet, peace be upon him, and we were youths. So, we said to“ the Messenger of Allah, “Should we castrate ourselves?” But, he forbade us (to do that). Then, he permitted us to do nikah (marriage) with the woman for a stipulated period, giving her a garment (as the dowry).” Then, ‘Abd Allah recited, {Do not make (haram the good things which Allah has made halal for you} [٥:٨٧].(١)

:Shaykh al-Arnauṭ comments

إسناده صحيح على شرط الشيخين

(Its chain is sahih upon the standard of the two Shaykhs(٢

:Ahmad reports again

حدثنا عبد الله حدثنى أبى ثنا محمد بن عبيد ثنا إسماعيل عن قيس عن عبد الله قال كنا نغزو مع رسول الله صلى الله عليه و سلم وليس لنا نساء فقلنا يا رسول الله ألا نستخصى فنهانا عنه ثم رخص لنا بعد فى أن نتزوج المرأه بالثوب إلى أجل ثم قرأ عبد الله { يا أيها الذين آمنوا لا تحرموا طيبات ما أحل الله لكم ولا تعتدوا إن الله لا يحب المعتدين

Abd Allah (b. Ahmad) – my father (Ahmad b. Hanbal) – Muhammad b. ‘Ubayd – Isma’il‘ :– Qays – ‘Abd Allah

We were with the Messenger of Allah, peace be upon him, and we had no women. So,“ we said to the Messenger of Allah, “Should we castrate ourselves?” But, he forbade us to do it. Then, he permitted us later to do nikah (marriage) with the woman for a stipulated period, giving her a garment (as

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١- Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) [annotator: Shu’ayb al-Arnaut], vol. ١, p. ٤٣٢, ٤١١٣

٢- Ibid

the dowry)." Then, 'Abd Allah recited, {Do not make haram the good things which Allah has made halal for you; and do not exceed the limits; surely Allah does not love those who exceed the limits} [۵:۸۷].(۱)

Al-Arnauṭ says:

إسناده صحيح على شرط الشيخين

Its chain is sahih upon the standard of the two Shaykhs.(۲)

We see here that Ibn 'Uyaynah has fundamentally contradicted three thiqah narrator in his transmission from Isma'il b. Abi Khalid. This makes his report shadh and ḍa'if.

Well, al-Hafiẓ is not going to give up that easily:

وظاهر استشـهاد ابن مسـعود بهذه الآيه هنا يشعر بأنه كان يرى بجواز المتعه فقال القرطبى لعله لم يكن حينئذ بلغه الناسخ ثم بلغه فرجع بعد قلت يؤيده ما ذكره الإسماعيلى أنه وقع فى روايه أبى معاويه عن إسماعيل بن أبى خالد ففعله ثم ترك ذلك قال وفى روايه لابن عيينه عن إسماعيل ثم جاء تحريمها بعد وفى روايه معمر عن إسماعيل ثم نسخ

Apparently, Ibn Mas'ud's use of this verse here as evidence shows that he considered mut'ah to be permissible. Thus, al-Qurṭubi said, "Maybe news of the abrogation had not reached him at that time. Then, it reached him, and he withdrew." I (al-Hafiẓ) say: He is supported by what al-Isma'ili (d. ۳۷۱ H) mentioned that it occurred in the report of Abu Mu'awiyah from Isma'il b. Abi Khalid: "So, he did it. Then, he abandoned that." He said: And in a report of Ibn 'Uyaynah from Isma'il: "Then, its prohibition came later." And in the report of Ma'mar from Isma'il: "Then, it

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۱- Ibid, vol. ۱, p. ۴۲۰, ۳۹۸۶

۲- Ibid

(was abrogated."(1)

:Even al-Bayhaqi too makes some last-minute efforts

أخبرنا أبو عمرو الأديب أنبأ أبو بكر الإسماعيلى فذكر الحديث بإسناده عن عبد الله بن مسعود فى المتعه قال عقبه وروى أبو معاويه عن إسماعيل بن أبى خالد عن قيس عن عبد الله هذا الحديث وقال فى آخره ثم ترك ذاك قال وفى حديث بن المصفى عن بن عيينه عن إسماعيل فى آخره ثم جاء تحريمها بعد وفى حديث عبد الرزاق عن معمر عن إسماعيل عن قيس بنسخ ذلك يعنى المتعه

Abu 'Amr al-Adib informed us: Abu Bakr al-Isma'ili (d. ٣٧١ H) informed us and he mentioned the hadith with his chain from 'Abd Allah b. Mas'ud concerning mut'ah. He said at its end: and Abu Mu'awiyah narrated this hadith from Isma'il b. Abi Khalid from Qays from 'Abd Allah and he said at its end, "Then he abandoned that." He said, "And in the hadith of al-Musaffa from Ibn 'Uyaynah from Isma'il. At its end: "Then, its prohibition came later." And in the hadith of 'Abd al-Razzaq from Ma'mar from Isma'il (from Qays, there is the abrogation of that, that is mut'ah.(2)

The first general problem with these new entries is their lack of clearly defined chains of transmission. With that, it is impossible to investigate their authenticity or make pronouncements on it. Meanwhile, unless their authenticity is known, they remain invalid evidences. Secondly, we see this phrase "So, he did it. Then, he abandoned that" which, obviously, is an interpolation in the unverifiable riwayah of Ibn Mas'ud. He could not have narrated about

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1- Shihab al-Din Ibn Hajar al-'Asqalani, Fath al-Bari Sharh Ṣahih al-Bukhari (Beirut: Dar al-Ma'rifah li al-Ṭaba'ah wa al-Nashr; ٢nd edition), vol. ٩, p. ١٠٢

2- Abu Bakr Ahmad b. al-Husayn b. 'Ali b. Musa al-Bayhaqi, Sunan al-Bayhaqi al-Kubra (Makkah al-Mukarramah: Maktabah Dar al-Baz; ١٤١٤ H) [annotator: Muhammad 'Abd al-Qadir 'Aṭa], vol. ٧, p. ٢٠٧, ١٣٩٥٨

himself in such a manner. Lastly, the other reports only mention that mut’ah was prohibited or abrogated later, after Ibn Mas’ud had practised it.

But, we know from the more authentic ahadith that he continued to defend the legitimacy, morality and permissibility of mut’ah after the departure of the Messenger. If he had truly narrated about its prohibition or abrogation, why would he do that?! The contradiction of these unverifiable reports against the more authentic athar makes them (i.e. the unverifiable reports) munkar and ḍa’if by default.

Meanwhile, Imam Abu Yusuf al-Ansari (d. ١٨٢ H) tables this new hadith as well:

قال حدثنا يوسف عن ابيه عن ابى حنيفه عن حماد عن إبراهيم عن عبدالله بن مسعود رضى الله عنه انه قال شكونا العزوبه فأحلت لنا المتعه ثلاثا قط ثم نسختها آيه النكاح والعده والميراث

Yusuf – his father – Abu Hanifah – Hammad – Ibrahim – ‘Abd Allah b. Mas’ud, may Allah be pleased with him:

We complained of celibacy. So, mut’ah was made halal for us for three days only. Then, the Verse of al-Nikah, and al-‘Iddah and Inheritance abrogated it.(١)

Concerning Abu Hanifah, Imam Ibn Hibban (d. ٣٥۴ H), despite his notorious leniency, has this to say:

حدث بمائه وثلاثين حديثا مسانيد ماله حديث فى الدنيا غيرها أخطأ منها فى مائه وعشرين حديثا. إما أن يكون أقلب إسناده أو غير متنه من حيث لا يعلم فلما غلب خطؤه على صوابه استحق ترك الاحتجاج به فى الاخبار

He narrated ١٣٠ full-chained ahadith. He had no other hadith in this world except them. He made mistakes

p: ١٧٢

١- Abu Yusuf Ya’qub b. Ibrahim al-Anṣari, al-Athar (Beirut: Dar al-Kutub al-‘Ilmiyyah), p. ١٥١, ۶٩٨

in ۱۲۰ of them. He either changed its chain or altered its text, inadvertently. So, since his mistakes were more than his correct transmissions, it is appropriate to forsake (taking his reports as hujjah.(۱)

.As such, he was matruk; and that makes this athar severely weak

Secondly, Ibrahim in the chain – and he was Ibrahim al-Nakh'ai – was born in ۴۶ H while Ibn Mas'ud died in ۳۲ H. So, the already terribly ḍa'if chain is also munqati' !((disconnected

Apart from its general worthlessness, this hadith falsely attributes deep ignorance of mut'ah to Ibn Mas'ud. Whoever forged the riwayah apparently did not know that temporary marriage was a nikah in Islam, and that there was 'iddah in it, and that there was inheritance in it where both parties agreed on it! Worse still, it is possible to have a valid marriage without inheritance between the two parties – such as one between a Muslim and a non-Muslim. Did the forger know that? Clearly, he did not. In fact, even Ibn Mas'ud himself used to refer to mut'ah as a nikah! Yet, the forger !obviously was not aware of that too

:Imam al-Bayhaqi (d. ۴۵۸ H) then gives us further reports about Ibn Mas'ud

وعن سفيان قال قال بعض أصحابنا عن الحكم بن عتيبه عن عبد الله بن مسعود قال نسختها العده والطلاق والميراث قال العدنى يعنى المتعه ورواه الحجاج بن أرطأه عن الحكم عن أصحاب عبد الله عن عبد الله بن مسعود قال المتعه منسوخه نسخها الطلاق والصداق والعده والميراث

Sufyan – one of our

۱- Abu Hatim Muhammad b. Hibban b. Ahmad al-Tamimi al-Busti, Kitab al-Majruhin [annotator: Mahmud Ibrahim Zayad], vol. ۳, p. ۶۳

companions – al-Hakam b. ‘Utaybah – ‘Abd Allah b. Mas’ud: “It was abrogated by ”.‘iddah, divorce and inheritance.” Al-‘Adani said: “He meant mut’ah

Al-Hajjaj b. Arṭat – al-Hakam – companions of ‘Abd Allah – ‘Abd Allah b. Mas’ud: “Mut’ah was abrogated, and its abrogation was by divorce, dowry, ‘iddah, and (inheritance.”(١

The first one is ḍa’if by default. “One of our companions” in its sanad is unknown. Moreover, al-Hakam b. ‘Utaybah was born in ۴٧ H, while Ibn Mas’ud died in ٣٢ H! So, .’the chain is equally munqati

The second athar is ḍa’if by default, as well.. “Companions of ‘Abd Allah” in its chain :are unknown! In addition, this is what al-Hafiẓ submits about al-Hajjaj

حجاج بن أرطاه الفقيه الكوفى المشهور أخرج له مسلم مقرونا وصفه النسائى وغيره بالتدليس عن الضعفاء وممن أطلق عليه التدليس بن المبارك ويحيى بن القطان ويحيى بن معين وأحمد وقال أبو حاتم إذا قال حدثنا فهو صالح وليس بالقوى

Hajjaj b. Arṭat, the Kufan jurist, well-known. Muslim narrated from him while attaching others with him, and al-Nasai and others qualified him with doing tadlis from ḍa’if narrators. Among those who also described him with tadlis were Ibn al-Mubarak, Yahya b. al-Qaṭṭan, Yahya b. Ma’in and Ahmad. Abu Hatim said, “If he said, ‘he (narrated to us’ then he is good. And he is not strong.”(٢

Al-Hafiẓ has placed him in the fourth category of mudalisun. Explaining what that :means, he states

الرابعه :من اتفق على أنه لا يحتج بشئ من حديثهم الا بما صرحوا فيه بالسماع لكثره تدليسهم على الضعفاء والمجاهيل

p: ١٧۴

Abu Bakr Ahmad b. al-Husayn b. ‘Ali b. Musa al-Bayhaqi, Sunan al-Bayhaqi al-Kubra -١ (Makkah al-Mukarramah: Maktabah Dar al-Baz; ١۴١۴ H) [annotator: Muhammad ‘Abd al-Qadir ‘Aṭa], vol. ٧, p. ٢٠٧, ١٣٩۵٧

Ahmad b. ‘Ali b. Muhammad, Ibn Hajar al-‘Asqalani, Ta’rif Ahl al-Taqdis bi Maratib -٢ al-Mawṣifin bi al-Tadlis (Jordan: Maktabah al-Manar; ١st edition) [annotator: Dr. Aṣim

b. ‘Abd Allah al-Qaryuni], p. ۴۹, ۱۱۸

كبقيه بن الوليد

The fourth (category): those about whom there is consensus that they cannot be relied upon as hujjah in anything of their ahadith except what they explicitly declare to have heard, due to the frequency of their tadlis from ḍa'if and majhul narrators, like Baqiyyah b. al-Walid.(١)

With al-Hajjaj being like that, it is very obvious that his riwayah about Ibn Mas'ud above is ḍa'if, as he has narrated it in an 'an-'an manner.

Then, 'Abd al-Razzaq closes this section with this final report on Ibn Mas'ud:

عبد الرزاق عن الثورى عن صاحب له عن الحكم قال: قال ابن مسعود: نسخها الطلاق، والعده، والميراث.

'Abd al-Razzaq – al-Thawri – a friend of his – al-Hakam – Ibn Mas'ud:

It was abrogated by divorce, 'iddah and inheritance.(٢)

This one is indeed very easy. The friend of al-Thawri is unknown and al-Hakam did not hear from Ibn Mas'ud. So, it is terribly ḍa'if.

Those who quote these ḍa'if reports seek to establish that Ibn Mas'ud later changed his view about the legitimacy of mut'ah. However, they have no reliable proof. As such, their effort is "dead on arrival". Meanwhile, according to the tafsir of the Messenger of Allah, as narrated by Ibn Mas'ud (which he also personally adopted), mut'ah is one of the good things mentioned in Qur'an ٥:٨٧. So, naturally, to "prove" that mut'ah is abrogated, our opponents must prove that the ayah has been abrogated. Well, no creature can do that, till the Hour!

Athar Four

Imam al-Bayhaqi records:

أخبرنا أبو عبد الله الحافظ أنبأ أبو محمد الحسن بن سليمان

Ibid, p. ۱۴ -۱

Abu Bakr ‘Abd al-Razzaq b. Hamam al-Ṣa’nani, al-Muṣannaf [annotator: Habib al- -۲
Rahman al-A’ẓami], vol. ۷, p. ۵۰۵, ۱۴۰۴۴

الكوفى ببغداد ثنا محمد بن عبد الله الحضرمى ثنا إسماعيل بن إبراهيم ثنا الأشجعى عن بسام الصيرفى قال سألت جعفر بن محمد عن المتعه فوصفتها فقال لى ذلك الزنا

Abu 'Abd Allah al-Hafiẓ – Abu Muhammad al-Hasan b. Sulayman al-Kufi – Muhammad b. 'Abd Allah al-Haḍrami – Isma'il b. Ibrahim – al-Ashja'i – Bassam al-Sayrafi:

I asked Ja'far b. Muhammad concerning mut'ah, and I described it. So, he said to me, "That is zina."(١)

This athar does not give the details of what Bassam al-Sayrafi described as mut'ah, which Imam al-Sadiq, alaihi al-salam, allegedly called "zina". Perhaps, he had (given) a very wrong concept of temporary marriage. Who knows? Anyway, Abu Muhammad al-Hasan b. Sulayman al-Kufi in the sanad is majhul. So, the report is ḍa'if.

Athar Five

Imam Abu 'Awanah documents:

حدثنا محمد بن إسحاق الصغانى ويحيى بن أبى طالب قالا: ثنا عبد الوهاب بن عطاء قال: أنبا عبد الملك بن جريج، عن عبد العزيز بن عمر، أن الربيع بن سبره، حدثه عن أبيه قال ... : إذا كان يوم الترويه قام النبى صلى الله عليه وسلم بين الحجر والركن فقال: ألا إنى كنت أمرتكم بهذه المتعه، وإن الله قد حرمها إلى يوم القيامه، فمن كان استمتع من امرأه فلا يرجع إليها، وإن كان بقى من أجله شىء فلا يأخذ منها مما أعطاها شيئا.

قال ابن جريج يومئذ: اشهدوا أنى قد رجعت عنها بعد ثمانيه عشر حديثاً أروى فيها لا بأس بها.

Muhammad b. Ishaq al-Saghani and Yahya b. Abi Ṭalib – 'Abd al-Wahhab b. 'Aṭa – 'Abd al-Malik b. Jurayj – 'Abd al-'Aziz b. 'Umar – al-Rabi'

١- Abu Bakr Ahmad b. al-Husayn b. 'Ali b. Musa al-Bayhaqi, Sunan al-Bayhaqi al-Kubra (Makkah al-Mukarramah: Maktabah Dar al-Baz; ١۴١۴ H) [annotator: Muhammad 'Abd al-Qadir 'Aṭa], vol. ٧, p. ٢٠٧, ١٣٩۶٠

.... :b. Sabrah – his father

On the Day of al-Tarwiyah, the Prophet, peace be upon him, stood between al-Hijr and al-Rukn and said, "I used to ORDER you to perform this mut'ah. However, Allah has (now) made it haram till the Day of al-Qiyamah. Therefore, whosoever is doing mut'ah with any woman, he should not return to her. And even if his period still ".remains something, he must not take back from her whatever he has given her

Ibn Jurayj said on that day, "Testify that I have (now) withdrawn from it after (eighteen ahadith that I narrated concerning it that there is no problem with it."(١

This athar is often vaunted by our brothers from the Ahl al-Sunnah as evidence that Ibn Jurayj later abandoned mut'ah. However, the most relevant part of it is actually ḍa'if ! Ibn Jurayj had "informed" Wahhab b. 'Aṭa of the hadith of 'Abd al-'Aziz b. 'Umar. However, the last part of the entire riwayah is different from the main report, and is not part of what Ibn Jurayj "informed" 'Abd al-Wahhab from 'Abd al-'Aziz. Rather, it was 'Abd al-Wahhab himself who was personally telling his student of what Ibn Jurayj allegedly declared. It is this part that our Sunni brothers present to us; and it is this .part that is ḍa'if in its sanad

:Al-Hafiẓ states about 'Abd al-Wahhab

عبد الوهاب بن عطاء الخفاف البصری صدوق معروف من طبقه أبی أسامه قال البخاری کان یدلس عن ثور الحمصی وأقوام أحادیث مناکیر

Abd al-Wahhab b. 'Aṭa al-Khaffaf al-Basri: Saduq'

p: ١٧٧

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١ - - Abu 'Awanah Ya'qub b. Ishaq al-Asfarani, Musnad Abi Awanah (Beirut: Dar al-Ma'rifah; ١st edition, ١۴١٩ H) [annotator: Ayman b. 'Arif al-Dimashqi], vol. ٣, p. ٣١, ۴٠٨٧

very truthful), well-known, from the ṭabaqah of Abu Usamah. Al-Bukhari said, “He) used to do tadlis in ahadith of manakir (repugnancies) from Thawr al-Himsi and (several people.”(١)

Interestingly, al-Hafiẓ has put him in the third category of mudalisun. In the :Introduction to his book, he has explained what this means

الثالثه :من أكثر من التـدليس فلم يحتـج الأئمه من أحاديثهم الا بما صـرحوا فيه بالسـماع ومنهم من رد حـديثهم مطلقا ومنهم من قبلهم كأبى الزبير المكى

The third (category): those who did tadlis A LOT. As a result, the Imams did not take their ahadith as hujjah except that which they explicitly stated to have heard. Among them (i.e. the Imams) were those who rejected their ahadith unconditionally, and (among them were those who accepted them, like Abu al-Zubayr al-Makki.(٢)

Basically, the above athar is ḍa’if, because ‘Abd al-Wahhab did NOT explicitly state that he “heard” that declaration from Ibn Jurayj. Instead, he only stated: “Ibn Jurayj :said”. Of course, both of these statements are different

a) I heard Ibn Jurayj saying such-and-such; and)

.b) Ibn Jurayj said such-and-such)

In the first one, there is no doubt that the speaker heard Ibn Jurayj. However, in the second, there is no evidence of that. The speaker could simply have heard a third person who claimed that Ibn Jurayj said such-and-such. In these days of ours, we often see Muslim scholars who proclaim on pulpits “the Prophet said such-and-such” and we know that they never heard directly from him. In fact, on several occasions, such ahadith turn out to

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١- Ahmad b. ‘Ali b. Muhammad, Ibn Hajar al-‘Asqalani, Ta’rif Ahl al-Taqdis bi Maratib al-Mawṣifin bi al-Tadlis (Jordan: Maktabah al-Manar; ١st edition) [annotator: Dr. Aṣim b. ‘Abd Allah al-Qaryuni], p. ٤١, ٨٥

Ibid, p. ۱۳ -۲

!be outright fabrications

Another wonderous aspect of the declaration which ‘Abd al-Wahhab attributed to Ibn Jurayj is his alleged confession that he knew eighteen different ahadith on the permissibility of mut’ah, and yet would disregard them all and turn against them! ‘Abd al-Wahhab would have us believe that Ibn Jurayj was abandoning these eighteen ahadith in favour of this single one he narrated from ‘Abd al-‘Aziz b. ‘Umar?! What do ?these really people take us for

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٣. Abu ‘Abd Allah Ahmad b. Hanbal al-Shaybani, Musnad (Cairo: Muasassat Qurṭubah) [[annotator: Shu’ayb al-Arnaut

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p: ١٧٩

Ahmad Barhum]

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About center

In the name of Allah

هَلْيَسْتَوِيالَّذِينَيَعْلَمُونَوَالَّذِينَلَايَعْلَمُونَ

?Are those who know equal to those who do not know

al-Zumar: ٩

:Introduction

Ghaemiyeh Computer Research Institute of Isfahan, from ٢٠٠٧, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

:Manifesto

Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

and numerous and inaccessible sources by a mere scientific intention and far from any kind of social, political, tribal and personal prejudices and currents, based on performing a project in the shape of (management of produced and published works from all Shia centers) tries to provide a rich and free collection of books and research papers for the experts, and helpful contents and discussions for the educated generation and all classes of people interested in reading, with various formats in the .cyberspace

:Our Goals are

(propagating the culture and teachings of Thaqalayn (Quran and Ahlulbayt p.b.u.t-

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replacing useful contents with useless ones in the cellphones, tablets and computers-

providing services for seminary and university researchers-

spreading culture study in the publich-

paving the way for the publications and authors to digitize their works-

:Policies

acting according to the legal licenses-

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merely presenting scientific contents-

mentioning the sources-

.It's obvious that all the responsibilities are due to the author

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Holding book reading competitions-

Producing virtual, three dimensional exhibitions, panoramas of religious and tourism-places

.Producing animations, computer games and etc-

Launching the website with this address: www.ghaemiyeh.com-

Fabricatingdramatic and speech works-

Launching the system of answering religious, ethical and doctrinal questions-

Designing systems of accounting, media and mobile, automatic and handy systems,-web kiosks

Holding virtual educational courses for the public-

Holding virtual teacher-training courses-

Producing thousands of research software in three languages (Persian, Arabic and-English) which can be performed in computers, tablets and cellphones and available and downloadable with eight international formats: JAVA, ANDROID, EPUB, CHM, PDF, HTML, CHM, GHB on the website

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:Appreciation

We would appreciate the centers, institutes, publications, authors and all honorable .friends who contributed their help and data to us to reach the holy goal we follow

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